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The impact of Multinational corporations in the
mining sector in South Africa

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**The impact of Multinational corporations in
the mining sector in South Africa**

Dissertation carried out within the scope of the
Master's Degree in History and international Relations, supervised
by Professor Teresa Cierco

Faculty of Arts and Humanities
University of Porto

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The impact of multinational companies in the mining industry in South Africa

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Dissertation carried out in the scope of the Master in History and International
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Declaration of honour

I declare that this work / thesis / dissertation / report / ... is my own and has not been previously used in another course or curricular unit, of this or another institution. References to other authors (affirmations, ideas, thoughts) scrupulously respect the rules of attribution, and are duly indicated in the text and bibliographical references, according to the norms of reference. I am aware that the practice of plagiarism and self-plagiarism constitutes an academic exclusion.

Porto, (27 June 2018)

Snothile Mkhize

Dedications

My highest praise and thanks goes to my God and Lord Jesus Christ.

I would like to extend a special thank you to my supervisor Dr. Teresa Cierco. Thank you for your invaluable and insightful advice and guidance. I am also proud to be part of a faculty where women continue to support and invest in one another.

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To community of Porto, I have never felt more at home, this city is the valley of soul. Everything about my experience here will be etched into my heart and soul forever.

To all my friends all over the world, there are just too many of you to mention. Thank you for believing in me even when I doubted myself. Cheers...The best is yet to come.

Resumo

Pretende-se com este estudo desenvolver uma investigação completa sobre o impacto das empresas multinacionais na indústria de mineração na África do Sul. O estudo comporta uma perspectiva histórica e reconciliatória que irá adicionar ao conhecimento atual e valorização acadêmica das empresas multinacionais na indústria de mineração, aplicada no contexto sul-africano. Todo o estudo estará considerando valores e objetivos constitucionais que alteraram significativamente as mudanças práticas, figurativas e operacionais no cenário das multinacionais na indústria de mineração. Além disso, este trabalho pretende contribuir para a eliminação da lacuna de conhecimento acadêmico sobre um dos setores de marcas registradas da África do Sul.

Além disso, este estudo procura demonstrar algumas das medidas e políticas internacionalmente aprovadas de empresas multinacionais na indústria de mineração, especialmente o Grupo De Beer, que emanam da África do Sul. Ao fazer isso, procuramos ilustrar o papel e o papel desempenhado pela África do Sul no combate à praga internacional de diamantes de conflito por meio de mecanismos como o Sistema de Certificação do Processo de Kimberley, que formou uma poderosa ferramenta internacional de regulamentação legal na indústria de mineração.

Keywords: Empresas multinacionais, África do Sul, indústria de mineração

Abstract

It is intended in this study that a thorough investigation and analysis of the impact of Multinational companies in the mining industry in South Africa. The study is from a historic and reconciliatory perspective which will add to current knowledge and academic appreciation of Multinational companies in the mining industry as applied in the South African context. The whole study will be considering constitutional values and objectives which have significantly altered the practical, figurative and operational changes in the landscape of MNCs in the mining industry. Further, this work is intended to contribute to the elimination of the academic knowledge gap concerning one of South Africa's trademark sectors.

Further, this study seeks to demonstrate some of the internationally approved measures and policies of MNCs in the mining industry, especially the De Beer Group, which have emanated from South Africa. In doing so, we seek to illustrate the role and part played by South Africa in combating the international plague of conflict diamonds through such mechanisms as the Kimberley Process Certification Scheme which has formed a powerful international legal regulatory tool in the mining industry.

Keywords: Multinational companies, South Africa, mining industry

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LIST OF ABBREVIATIONS & ACRONYMS

BEE	Black Economic Empowerment
COSATU	Congress of South African Trade Unions
GEAR	Growth, Employment and Redistribution
RDP	Reconstruction and Development Programme
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nation Development Programme
WTO	World Trade Organisation
NALEDI	National Labour and Economic Development Institute
ZAR	Rand, South African currency
MNC	Multinational companies
LDC	Less developed counties

1.Introduction

Research Question: What has been the impact of Multinational corporations in the mining sector in South Africa?

To date it can be said that South Africa has one of the most sophisticated economies in Africa continent. However, it is an economy with the highest levels of inequality. The post-Apartheid government has attempted to correct the economic inequality through attracting Foreign Direct Investment (FDI) and Multinational companies (MNCs). To understand the impact of multinational corporations in South Africa, it is important to evaluate the history of the mining sector of gold and diamonds, due to its prominent role in the influence on South African international trade involvement and globalisation.

There is no arguing the fact that we live in the era of massive globalization which influences almost all areas of modern life, the most important feature of globalization is creation and development of multinational corporations. Until the mid-1960s, the expansion of the MNC activity in Africa was generally considered as a positive trend in the global economy. Multinational companies were viewed as powerful agents for economic development. However, they have received a lot of criticism from many international organizations, and governments in countries where MNCs are based; their presence has been debated as being an area of imperialist power and ideological conflict.

The increasing growth of foreign direct investment in Africa, especially the rise of the multinational corporation (MNC), has been one of the most important aspects of economic developments that the continent has seen. In general,

economic development and political stability have been prominent validation for the positive impacts of the presence of MNCs, in contrary most political and social problems are also attributed to factors related to MNCs. More specifically multinational corporations have played a pivotal and paramount role in the development and underdevelopment of African countries. The mining industry is a pivotal part of the South African economy and is the most influential in international trade patterns, laws and development.

The aim of this research was to investigate the evolution and role of multinational corporations (MNCs) in the mining sector in South Africa and its impact in various spheres of society. It is imperative to understand the contribution made by MNCs in the political, economic and social sphere. The mining sector has been the backbone of the economy, which informs all aspects of competitiveness in the global arena. In addition, it attracts great foreign investment in the country. MNCs especially in the mining sector are therefore viewed as primary actors and key agents in transforming both the national and the international political and economic landscape. According to the department of mineral resources, there are approximately thirty-one mining companies operating in South Africa, and control according to the department of mineral report 2016 almost 80% of the South African mining market. Most shareholders in these 31 companies are not South Africans, although to date through the policy of BEE (black economic empowerment) many historically disadvantaged people hold shares in these companies (department of mineral resources report 2016/2017).

This study serves to benefit South Africa as a diamond producing country through adding required knowledge related to multinational companies in the mining industry particularly having regard to the fact that South Africa plays a significant role in the global economy and its diamond mining activities have impacted the country in different spheres. This study is essentially a qualitative critique, which is aimed at providing academic insight into how multinational companies can

impact policy and development in an emerging economy such as South Africa, furthermore we aim to understand policy contributions by MNCs and whether the current regulations as they exist are effective. We also seek to illustrate the role and part played by South Africa in combating the international plague of conflict diamonds through such mechanisms as the Kimberley Process Certification Scheme which has formed a powerful international legal regulatory tool in diamond trade and mining.

An MNC can be defined as a “firm that owns or controls income generating assets in more than one country” (Fieldhouse 2000:167). A multinational corporation is also known as a multinational enterprise or a transnational corporation (UNCTAD). Rugman states that MNCs are companies that establish an international presence through foreign direct investment (FDI). FDI initiatives are the physical extension of operations and the financial investment made by accompany. Therefore, every time a company builds a factory, marketing office, or exporting warehouse, acquires control of the distributing agency, or buys out the competitor’s share of the market, it is engaging in FDI (Rugman, 2005: 264). The UN Conference on Trade and Development (UNCTAD) claims that “FDI is the largest source of external finance for developing countries and they estimate that at least 64,000 MNCs and foreign affiliates, representing an FDI stock of \$7 trillion, control two-thirds of global trade in goods and services and generate 53 million jobs” (UNCTAD, 2004).

The primary concern of this research is to understand the impact of MNCs in the mining industry in South Africa. The study chiefly aims to understand and outline both the negative and positive impacts. Historically mining in most African countries rose because of the abundance of natural resources, cheap labour, and weak governance structures (Muthuri et al., 2012). The phenomenon of globalisation has impacted the South African economic and political landscape greatly. The history of mining has been that of the domination and exclusion of most the people of South Africa and indifference to the plight of communities

from which they drew their labour or those that hosted the mining industry (Tereblanche 2002).

Unlike most African countries South Africa is an anomaly among developing countries, because it is both developed and developing. It is considered a developed country because of good infrastructure and developing due to its ongoing social and economic problems. Mining giant the De Beers group has successfully transitioned from the successive colonial and apartheid governments, and has become a prominent figure in the current democratic regime. The impact that this corporation has had forms an integral part in South African history as well it's future, through understanding a balance of the positive and negative impacts, we can deduce and form a complete analysis of impacts and contributions that mining MNCs can have in developing countries, Mining plays a significant role in the economy of the Southern African Development Community (SADC) considering its contribution to GDP, exports, and employment (NALEDI, 2006:13).

The major objective of the study is to evaluate the positive and negative impacts of MNCs in the mining sector, with focus on the De Beer group and assess how MNCs contribute to the economic, political and social situation in South Africa.

History and International relations is an area of study that encompasses the analysis of multiple events which can be evaluated through several theories. A theory is a simplifying tool that allows us to decide which facts matter and which do not (Smith Et al 2008: 4). For this matter, the paper is set to evaluate NeoMarxist and international relations theories to explain and understand the role of MNCs in South Africa. Qualitative research is most appropriate to this study, in contrast to quantitative research, because it gives room for the researcher to engage in critical thinking when evaluating existing literature and when judging and weighing facts (Patton 1987: 9). The qualitative method of research provides

a thorough analysis of the relevant literature, scientific publications, thereby allowing the author to have a good understanding of its underlying processes.

The fundamental advantage associated with qualitative research regarding the aims of this study is that it is deductive. Qualitative research establishes concepts and insightful understanding of the patterns of the data rather than collecting data to assess predefined models and hypothesis (Begdan and Taylor 1998: 7). Another advantage of qualitative methodology is that it is more flexible and open when new discussions or processes are discovered during the research. Qualitative research has some sought of freedom from the rules of standardized statistical testing that do not allow room for manoeuvre during data collection and analysis (Maxwell 2005: 22).

The main disadvantage of qualitative research is that it has risk of subjectivism whereby the researcher can interpret the data using pre-conceived notions of what is right or wrong. Therefore, as a result, subjectivism can affect the results of qualitative research and renders them non-scientific. This study employs a qualitative research methodology that gives room for an in-depth analysis of the Neo-Marxist theories to establish its validity within the international relations discipline. Although most of the sources within this study are secondary sources of data, the literature is valid because it is sourced from reputable scientific academic databases, journals and publications.

The first chapter will focus on the theoretical aspects of the MNCs in the mining industry in South Africa and introduce their concept, structure, formation and evolution over time. In this chapter, we also define other notions such as foreign direct investments, economic globalization and corporate social responsibility, which are important for understanding the deeper context of this topic.

Chapter two concentrates on the historic contextualisation and characteristics of MNCs in the mining industry in South Africa with primary focus on their political influence, economic development, social conditions and principal issues they

encounter. Finally, chapter three demonstrates the previously discussed issues with focus on the case study namely the De beer group, the focus is aimed at evaluating the impacts of the company in South Africa.

The study finds that multinational companies within the mining industry have made strides to comply with the South African Constitutional objectives of freely participating in the economy of the country. Companies such as De Beers have empowerment objectives that have resulted in sustainable mining in South Africa and have led to the creation of a regulated diamond industry that truly benefits the country. Since the commencement of democracy in 1994, There has been a shift in the operation of MNCs whereby emphasis has been placed on the encouragement of fair capitalism and an investment into human capital and local communities.

It is crucial that the relationship between MNCs and the government maintain a state of transparency and accountability. Structures such as the UN enforce international efforts for fair diamond trade in South Africa and contribute positively to the regulation of policy and laws governing the practice of MNCs. This allows South African mining MNCs the opportunity to attract foreign investors and encourages equitable trade. The positive influence of more developed diamond trading policies and regulations in South Africa is in line with the UN 2015 Millennium Development Goals (MDG) which has identified diamond trade to be a positive vehicle for achieving those goals.

CHAPTER 1

1.1 Concepts/Definitions of Key Terms

Concepts in research have been described as the tools of scientific analysis. In this chapter, conceptual definitions will be used. In the chapters that follow, these theoretical concepts will be applied within the South African context and the role of multinational corporations will be analysed and described against this background.

Multinational corporations

The multinational corporation can be defined as a business organization whose activities are located and expanded to more than two countries. Multinational corporations, are also referred to as international corporations, an enterprise that engages in foreign direct investment (FDI) and owns or controls value adding activities in more than one country” (Dunning, 1993: 3). MNCs operate in networks which aim to create systemic and organizational benefits. MNCs are classified among as being the most significant and a critical aspect of globalization and their influence over the global economy is constantly increasing. MNCs have extensive economic power that comes from massive material resources, excellent research and development, economies of scale, sophisticated internal structure of the corporation and they often benefit from the relocation of production to the countries with lower labour and production other costs (Cihelková, 2010: 113).

Foreign direct investment

Foreign Direct Investment (FDI) has been one of the main vectors of globalisation in the past and has possibly grown in importance over the past decade (Jones,

2005; OECD, 2005). The UN Conference on Trade and Development (UNCTAD) claims that FDI is the largest source of external finance for developing countries. A Foreign direct investment (FDI) can be defined as an investment in the form of a controlling ownership in a business in one country by a corporation based in another country. FDI takes place when a corporation in one country establishes a business operation in another country, through setting up a new exclusively owned affiliate; this can also be done through acquiring a local company, or forming a joint venture in the host economy. FDI usually involves participation in management, joint-ventures, transfer of technology and expertise. Moreover, a large and growing body of literature has shown and acknowledged FDI for their effect in economic growth and development in developing countries. FDI's known to enhance economies lead to technological advances and they increase the nation's income in general. Foreign direct investments are generally made in countries with open economies, as opposed to tightly regulated economies, Corporations invest in countries that offer a skilled workforce and a growth prospects for the investor.

Dess (1998) indicates that Foreign Direct Investment has an impact on the economic growth through the diffusion of knowledge. Moreover, he showed that FDI and economic growth are positively correlated in long-run period and the main reason is that they aim to absorb technological ideas from other countries through Foreign Direct Investment.

Globalization

Globalization can be defined as the process of interaction and integration among companies, governments and communities of different nations, it is a process centred on international trade and investment and aided by information technology. A defining feature of globalization is an international industrial and financial business structure. The process of globalization has numerous effects on the environment, culture, political systems, and economic development of

developing nations. The modern wave of globalization is characterized and driven by policies that have opened economies domestically and internationally. Although globalization is often mistaken as an exclusively economic phenomenon, it is obvious that “humans on all frontiers are being forced either to shift their ideational systems radically and quickly or to live in a thoughtworld that no longer fits the way their world is” (Keesing & Keesing 1971, 343). However, cultural globalization theorists such as Beck emphasize the paradoxical effects of globalization, he states that: “The basic insight is that globalization does not mean globalization automatically, unilaterally or ‘onedimensionally’ which is one of the endless sources of misunderstanding in this debate.” (Beck 2000:46).

Free markets and Free trade

A free market is a system in which the prices for goods and services are determined by the open market and consumers, in which the laws and forces of supply and demand are free from any interference by a government, pricesetting monopoly, or other authority. Modern countries do not operate with complete uninhibited free markets. Free markets are simply defined as “An economic system in which businesses operate without government control in matters such as pricing and wage levels” (Fieldhouse 2000:171) Free trade is the economic policy formed between two or more nations that permits the unlimited import or export of goods or services between partner nations. According to Fieldhouse, free trade means that any two countries can trade to their mutual benefit provided that each focus on those products in which it has a comparative advantage (Fieldhouse 2000:171).

Cartels / Monopolies

Cartels are expressions of imperialists’ spheres of influence. A cartel is a group of businesses that make the same product. Cartel is a member group where separate bodies gather together and cooperates for the controlling of manufacture,

marketplace as well as to set the price of the products or goods. (Scheinpflug, 2014)

A monopoly is when one company completely controls a product. This means that the company is the only one who trades, makes or sells it. Bijaoui states that when there is a monopoly of a product, the company can set any price that it wants to for the product. The public is forced to buy the product at this price because no other competing company that sells it. The company can therefore inflate prices and set prices. Business owners have various ways of starting monopolies, usually it is done through buying or closing out all the other companies that produce or sell the same item. (Bijaoui, 2017)

Corporate social responsibility

Corporate social responsibility (CSR) refers to companies taking responsibility for their impact on society. Corporate social responsibility is a business/management approach that contributes to the sustainable development of a partner country by delivering economic, social and environmental benefits for all participants. These efforts can range from donating money to non-profit organizations to implementing environmentally-friendly policies in the workplace. (Adefolake and Adeyeye 2012)

1.2 Theoretical Framework

This chapter forms the key point of departure for the dissertation which discusses the research methodology employed. It provides a theoretical framework which analyses the role of multinational corporations in the global and domestic economic system. Relevant Neo-Marxist and international relations theories will be applied which are specific to the role of multinational corporations in South Africa.

Neo-Marxism is a model of international relations analysis which originates and expands from traditional Marxism, Neo-Marxism in international relations can theoretically be understood and analysed in an ideologically neutral context. There are several Neo-Marxism theories within the international relations that can be examined to better understand the role of MNCs and globalization.

The world system theory is based on the notion that the Global North and South are in a structural relationship with one another. This theory, was developed by sociologist Immanuel Wallerstein, its fundamental assumptions are that the world has been divided into three main zones, the core and semi-periphery and periphery under the aid of global capitalism. This approach to world history and social change suggests there is a world economic system in which some countries benefit while others are exploited (Lechner 2001).

The World-systems theory which is also commonly referred to as the worldsystems analysis or the world-systems perspective, refers the inter-regional and transnational division of labour, which divides the world into three subdivisions being core countries, semi-periphery countries, and the periphery countries. Lechner (2001) states that core countries focus on higher skill, capitalintensive production, and the rest of the world focuses on low-skill, labourintensive production and extraction of raw materials. With the increase of globalization, the world-system theory is relevant in explaining the fundamental

mechanism of a global economy. The greatest appeal of this model is in its recognition of the growing internationalisation of the industrial economy.

According to Stephen (1998 23-38) the main characteristics of this theory are:

- The world systems theory is established on a three-level hierarchy consisting of core, periphery, and semi-periphery areas.
- The core countries dominate and exploit the peripheral countries for labour and raw materials.
- The peripheral countries are dependent on core countries for capital.
- The semi-peripheral countries share characteristics of both core and peripheral countries.
- This theory emphasizes the social structure of global inequality

Aspects of the world-system theory can be traced back to the writings of

Vladimir Lenin, he stated that “capitalism has grown into a world-system of colonial oppression and financial strangulation of most of the people of the world by a handful of ‘advanced’ countries” Lenin (1999: 9). Furthermore, Lenin argued that the exploitation had shifted as Marx had thought. Now the core capitalists together with their proletariat exploit the periphery societies which the world economy had brought under their control (Linklater 2005:122).

When examining this theory, it shows how functions of MNCs embody and promote the interdependence of core and periphery nations. For a country to change its status from the periphery to the core, Wallenstein proposes import substitution as a solution. Import substitution is a phenomenon that responds to external disruption of trade by domestically producing substitutes for those goods previously imported. This is a policy that governments in less developed countries may use to undertake industrialisation and structural changes. (Smith, 1979: 247-288). Many authors criticize the world-systems theory for being too focused

on the economy and not enough on culture and for its inability to conceptualize the rise of globalization.

The dependency theory links the notion of underdevelopment and capitalist exploitation to trade and monetary relations, and the role of corporate actors and economic institutions, like the world system theory, the dependency theory views development in global conditions rather than focussing on economic development on individual countries. Balaam and Veseth argue that the theory claims that the impoverishment of the South is a direct outcome of their exploitation by the advanced countries in the age of imperialism, which led to the superior development of the North. While the countries in the North accumulate sizeable capital, the countries in the South are further plunged into underdevelopment. The dependency theory further claims that a new form of imperialism is now dominant, “in which an economic imperialism continues the exploitation of the South, without the direct political rule of colonialism” (Balaam and Veseth, 2001: 70-90).

Andre Gunder Frank argues that “there exists a world structure in which dominant interests located in the advanced industrial world dominate and exploit the rest of the world using economic, political and military means, he explains that the global system works as a chain of metropolis-satellite relations. Each metropolis dominates, exploits and draws wealth from its satellite or satellites”. This chain, with northern societies at the top, keeps societies in Africa, Asia and Latin America at the bottom of a global system. Frank sees surplus exported upwards and outwards from the bottom of the chain to the top. For Frank, development is not possible without a complete break from the system. Once a state has become a satellite, it can only develop when its ties with the metropolis are broken or weakened, for example in times of war or recession. In this view development is always dependent development. Any context in which development occurred would involve the construction of a new international economic order which, far

from conforming underdeveloped societies to models set in the north (Frank, 1969: 3-12).

Culley (1977) states that the Dependency theory accepts certain neo-Marxist conceptions of the nature of development and underdevelopment, the conception of the interdependence of the capitalist world economy and the proposition that development and underdevelopment are partial, interdependent aspects of one global system. However, most authors argue that the Dependency theory is weak in its analysis of capitalist relations as because of its focus on negative and that it is based purely on exploitation. It must be noted that development has occurred in so-called peripheral areas, especially in nations such as South Africa which is both developed and developing, and not all relations with MNCs are about exploitation; therefore, the dependency falls short in the examination of relationships between advanced states.

According to Nicholson (1998:20), state that the neo-liberal theory functions in promoting the openness of markets and allows more efficient use of resources, exchange of technology and greater opportunities for economic growth. Nicholson states that neoliberal supporters view the impact of MNCs as pivotal contributors to economic development and understand FDI as a mechanism for increasing productivity and stimulating growth, through transferring capital, technology, and by mobilising underutilised domestic resources, MNCs are said to increase productivity, foster growth, and thereby improve welfare for the host country. In the early 1990s, the IMF, World Bank and US Treasury Department 'arrived at a consensus that neo-liberal policies were needed in less developed and emerging market economies.' These policies included the promotion and strengthening of free markets, as well as supporting private enterprise and increasing deregulation allowing entrepreneurial initiative (Nicholson 1998 423).

For Görg and Strobl, *The Washington Consensus* had several key policies for the Global South to increase development and these were said to be market-led.

These included the issuing of loans so long as ‘Southern’ governments followed strict policy conditions, state-led development was replaced with market-led development and to use foreign exchange from export-led growth to pay off debts and promote development. It is argued that once developing countries implement neo-liberal restructuring measures and policies and the investors accumulate sufficient capital, the benefits of growth and efficiency would ‘spill over’ to different sectors of the country which will in turn aid to development (Görg and Strobl 2001: 407-25)

Theory development

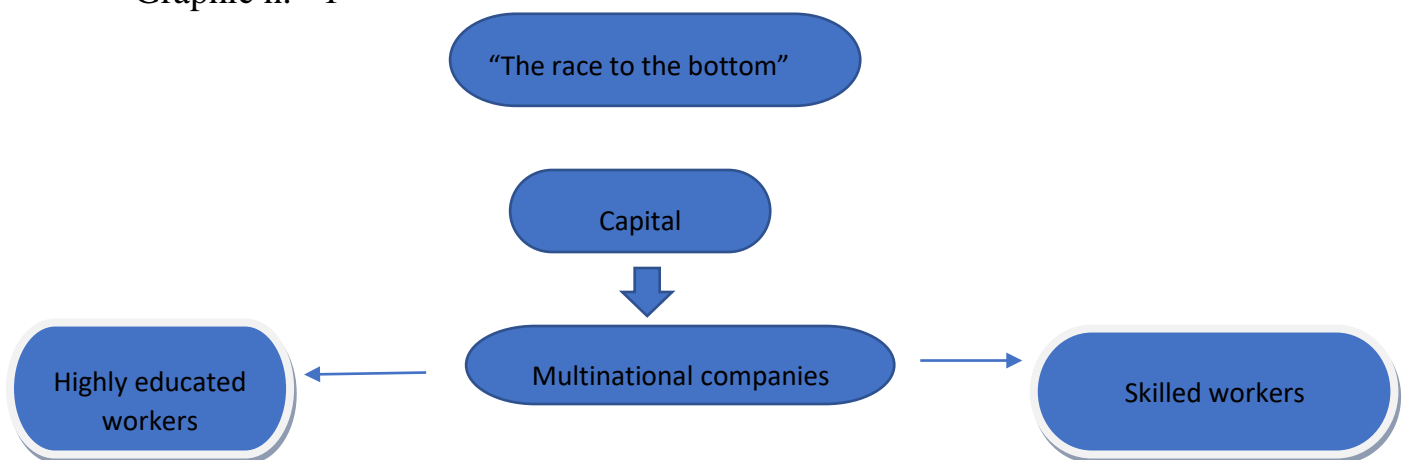
In examining the role of MNCs in the mining industry in South Africa, one must study the effects of those firms on political and socio-economic performance. To best contextualise the historical impacts of MNCs in the mining industry, with the boom of mining and quarrying in the 1870s, the colonial government aimed to restrict prospecting and mining rights to whites only. Laws were passed to declare all indigenous black’s ineligible for any form of control or ownership over the emerging industrial economy Ndlovu states that any white fortune seeker, from any country, could aspire to own and share in the mineral wealth of South Africa, but not an indigenous black. The emergent capitalist class was thus defined as white, and this fact was underwritten by law, the practises of the mining giants although skewed by racism resulted in the rise of De Beers as a monopoly of diamonds (Ndlovu 2009:71).

The apartheid regime which dominated South African governance and socioeconomic practises for 50 years imposed detrimental restrictions to the development of South Africa, although the apartheid era had a strong economic muscle to offer to international trade, especially through the presence and influence of formidable MNCs such as the De Beers group. However, the regulations and policies imposed to South Africa provided limited space for both competition and economic expansion, despite this the mining giants global

presence and growth was not stunted, it continued to prosper despite each era of change in governance.

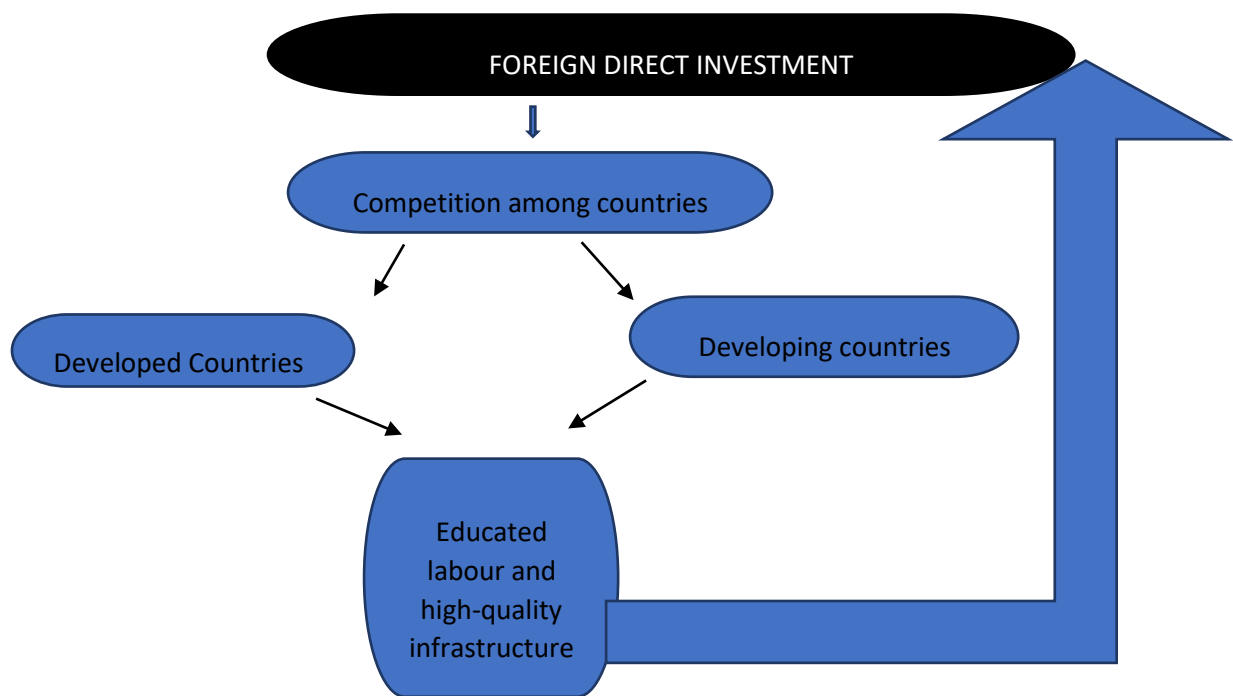
Crotty, Epstein, and Kelly (1997) identified five neoliberal views of the likely effect of MNCs on the direction of the world economy and developing countries. Based on these five neoliberal views, I have created five diagrams that will illustrate the five different neoliberal views. These views are the race to the bottom, the climb to the top, neoliberal convergence, uneven development and much ado about nothing. These views draw from the writings of several Marxian and neoliberal scholars (see graphic n. ° 1).

Graphic n. ° 1



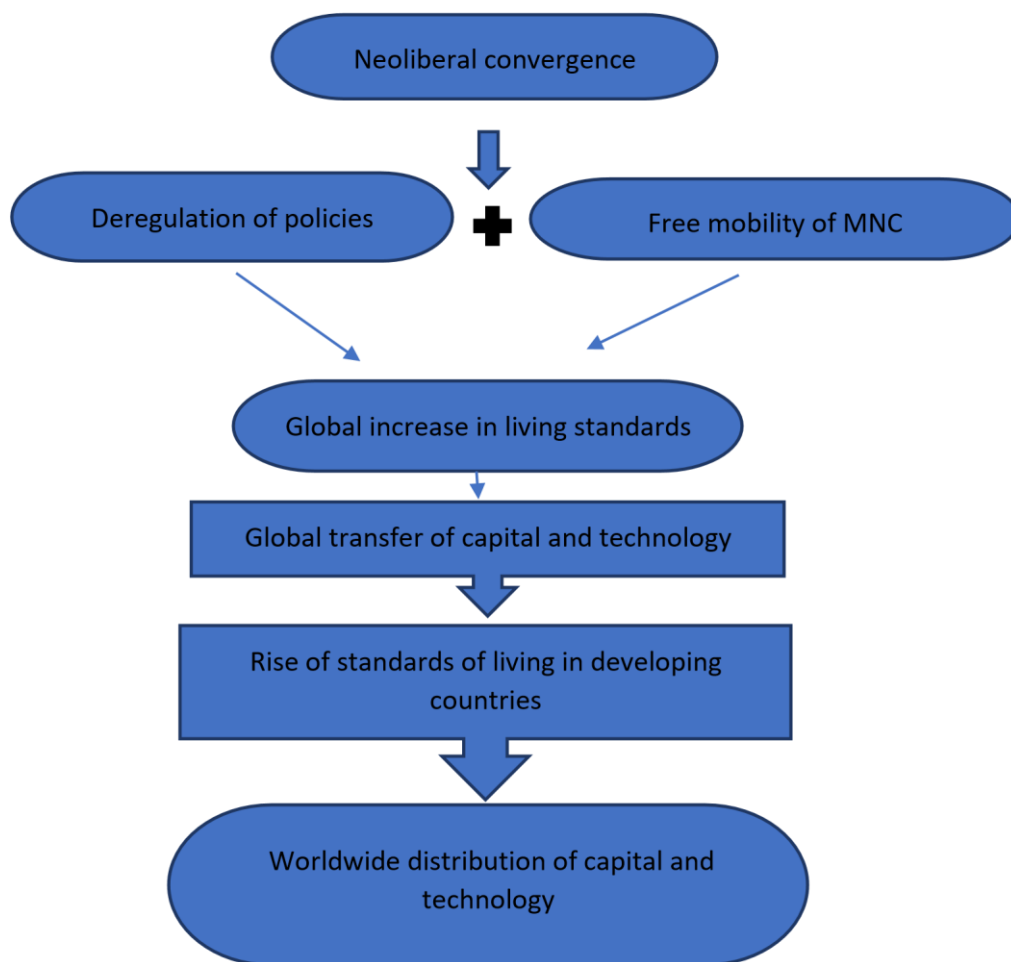
Source: Elaborated by the author

Barnet and Cavanagh (1991) as well as Greider (1997) work support the first neoliberal view of "the race to the bottom". According to this view, capital generated through the practise of MNCs benefit the companies whilst workers and communities lose. Greider (1997) explains adapted version which states that those who benefit the most will be highly educated or skilled workers specifically those located in MNCs. On the contrary, the unfortunate losers will be unskilled workers and the unemployed (see graphic n. ° 2).



Source: Elaborated by the author

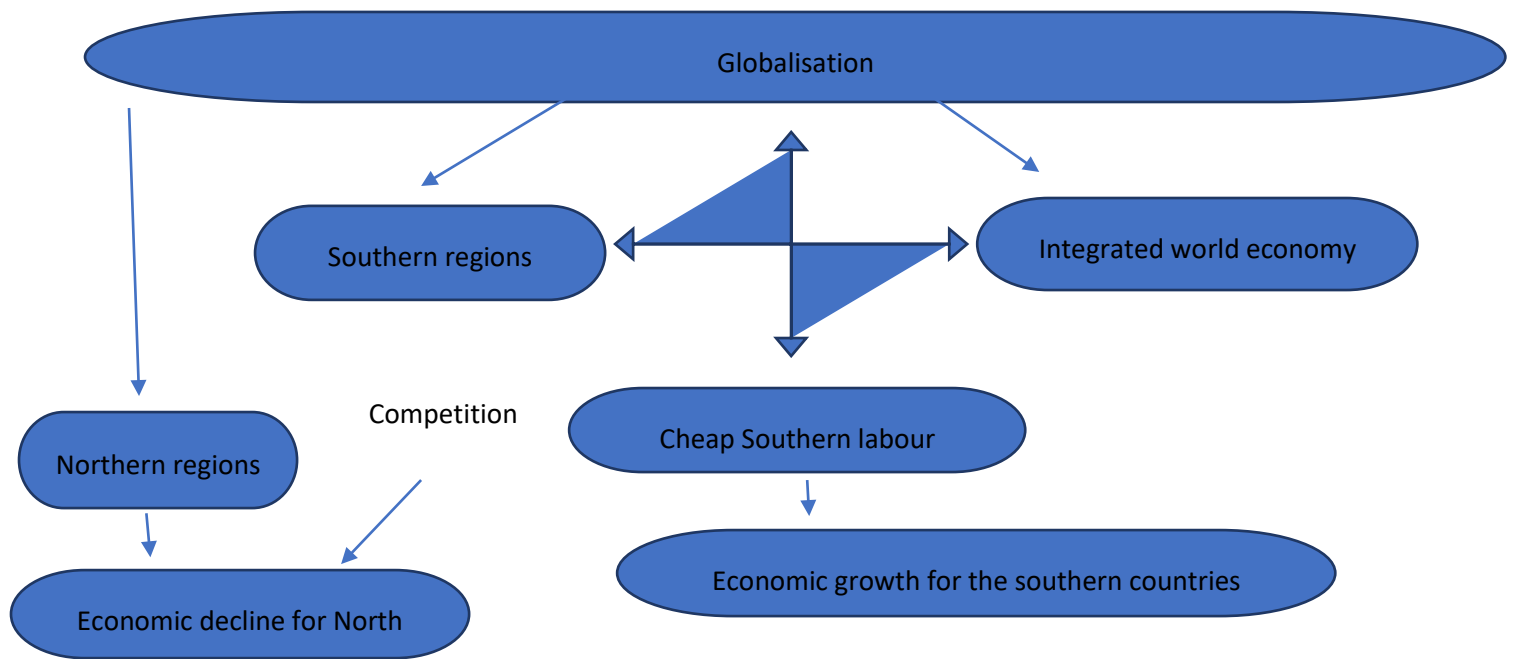
The second view is “the climb to the top”. It suggests that MNCs are attracted less by low wages and taxes than by highly educated workers, good infrastructure, high levels of demand. For Reich (1992) this view, induces competition among countries for FDI which will lead to developed and developing countries to try to provide well educated labour and high-quality infrastructure to retain and attract foreign investment (see graphic n. ° 3). Graphic n. ° 3



Source: Elaborated by the author

For Sachs and Warner (1995), capital and competition, from creating a race to the bottom, will create a global climb to the top, which in turn lead to the outcome represented by the third view of "neoliberal convergence." This states that free mobility of multinational corporations, in terms of deregulation of policies and free trade, the effects will lead to an increase in living standards globally. This process will transfer capital and technology internationally, which will also raise the standards of living in developing countries at a faster rate than those in the wealthier ones, eventually generating a worldwide capital and technology (see graphic n. ° 4).

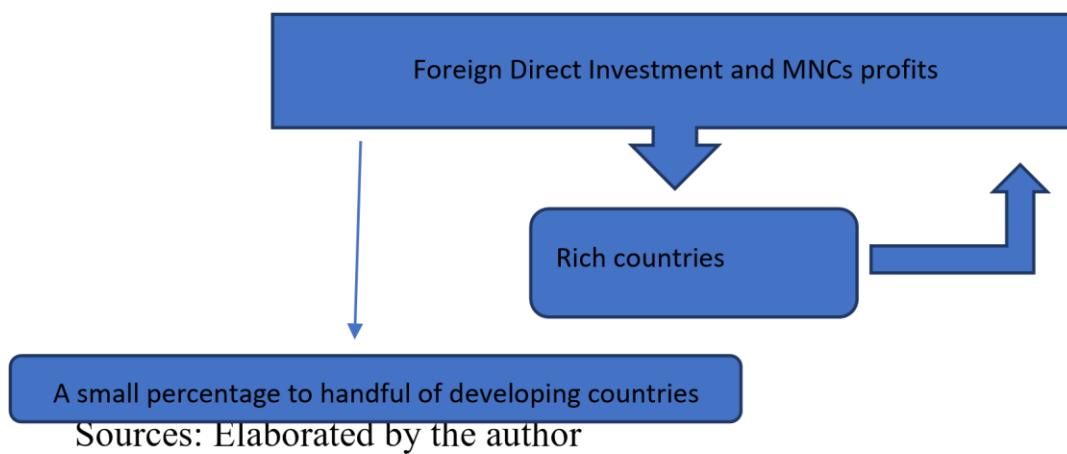
Graphic n. ° 4



Source: Elaborated by the author.

For Wood (1994) and Blecker (1997), neoliberal convergence could lead to the fourth view of "uneven development", which supports the theory of imperialism, in that it states that one region of the world, will grow at the expense of another region. Unlike the dependency theory, the fear seems to be the opposite: in that neoliberal convergence will lead to Northern regions having to compete with cheap Southern labour, and an integrated world economy will help the South grow, but this time at the expense of the North (see graphic n. ° 5)

Graphic n. ° 5



In contrast, Börzel and Thauer (2013), unlike the previous four views, which all agree that FDI and MNCs have a major impact to the improvement of the global economy and developing countries, subscribe the fifth and final view which argues that, FDI and MNCs play a small role in generating negative outcomes, such as inequality, unemployment, and wage stagnation. Börzel and Thauer (2013) argue that FDI accounts for a small percentage of most countries gross domestic products; they state that most FDI circulates between the rich countries and therefore there is neither convergence nor a race to the bottom; and that the FDI that does go the developing countries, goes to a handful of nations.

This theory best fits the South African context as Narsiah (2002) stated that in South Africa, since 1994 there has been a movement from a development policy with the Reconstruction and Development Program (RDP), as well as the Growth Employment and Redistribution (GEAR) policy, which are neoliberal in form and substance, both of which are instilled and implemented within the mining sector. Neoliberalism through development policy is being facilitated through a series of measures among which are fiscal austerity and export oriented production (Narsiah 2002: 29-38).

Post-Apartheid South Africa was under substantial pressure from international finance institutions and interest groups that wanted to affect the direction of the country's economy. The most prominent actors were international finance institutions such as the International Monetary Fund (IMF), the World Trade

Organization (WTO) and the World Bank, and the very strong corporate sector in South Africa. The corporate sector, often represented by the Mineral Energy Complex (MEC) and Anglo-American Company (AAC), published a very high number of scenarios like the Prospects for a successful Transition¹¹ document which promoted neoliberal practices (Taylor & Williams 2000:28). Mabasa (2016) argues that South Africa's move towards trade liberalisation favoured Western and European imperialism interest. Through signing the World Trade Organisation tariffs agreement in 1995, the government sealed their intention to neo-liberalise the South African economy (Mabasa 2016, Narsiah 2002:31).

Marias (2011:101) points out that, the ruling party in South Africa, the ANC, after 1994 was under an ideological bombardment, and the corporate sector promoted its message for neoliberal policies, which were all financed by FDI donors and multinational agencies. The ANC had a mandate to deliver sustainable growth after 1994. A part of this arrangement was the creation of a black capitalist class (Idem: 389). The ruling party hoped that this, the patriotic black capitalist class, would create a level of political and social stability, and with this create the pretext for a slow, but steady, project of empowerment and transformation of South African society. This was to be realized by neoliberal policies such as Black Economic Empowerment (BEE) (Idem: 140).

Patrick Bond (2005:1) explains how South Africa transitioned in policy reform what he calls "the transition from a popular-nationalist Anti-Apartheid project to official neoliberalism" by which is meant adherence to free market economic principles, over an extremely short period of time. Bond argues that the neoliberal policies in post-Apartheid South Africa have been incapable of lifting the underprivileged black majority, and the big beneficiaries have been a small elite of black businessmen, many with close ties to the ruling party as well big MNCs especially within the mining sector (Bond 2005:254).

Habib (2013) claims that the economic policy which has been implemented within the mining sector has been fundamentally neoliberal, and the most prominent

expression for this is the GEAR (launched in 1996), He claims that GEAR reinforced the divided structure from Apartheid. It was successful in deradicalizing some elements of the upper classes, but its trickle-down approach was not capable of limiting the distance between rich and poor although GEAR may have facilitated economic growth and allowed some to benefit enormously, it left millions unemployed (Habib 2013:6). Habib further argues that FDI and MNC neoliberal institutions had financial leverage to entrench the right-wing policies such as GEAR which in turn influenced the integration of the Black Economic Empowerment (BEE), which contradicted the country's initial RDP policy. The objectives of the RDP policy were to merge social services with measures that would boost and redistribute the country's wealth, whereas GEAR gave priority to neoliberal policies and globalisation. The mantra was "pursue economic growth and the rest shall follow." This solidified South Africa's neoliberal stance (Habib 2013:7-10).

Mabasa critically points out that globalisation in the context of neoliberalism, has negatively affected the economic power of the state. He argues that PostApartheid South African state has been impacted negatively by neoliberal globalisation. This reflects Crotty, Epstein, and Kelly (1997) fifth neoliberal view of "much ado about nothing", in that post 1994 multinational corporations established conditions that undermined the newly elected ANC governments call to nationalise mines and monopoly industrial companies (Mabasa 2016).

Historically South Africa was marked by a protection of unfair capitalism, market dominance and the legal protection of monopolies. Although PostApartheid South Africa has been plagued with neoliberal policies that seem to benefit MNCs, there have been several internationally approved measures such as the Kimberley Process Certification Scheme which has formed a powerful international legal regulatory tool concerning MNCs in the mining industry especially the diamond trade. The role of trade unions in the South African mining industry is extremely crucial when examining socio economic impacts.

This study recognises that despite the apparent short comings of neoliberal policies, MNCs within the mining industry when properly regulated internally through domestic legislation and externally through international law, stability and economic development can be achieved.

2.1 Historic contextualisation

South Africa is one of the world's leading mining and mineral-processing countries. The mining industry has been the main driving force behind the history and development of South Africa's economy.

The discovery of diamonds and gold played a pivotal role in the growth of the early South African economy. The mining sector has had the most influence on South African international trade involvement. Mining accounts for about a third of South Africa's commodity exports. This study doesn't aim to critic the political system of South Africa, but rather provide a brief historic reconstruction of the crucial moments of the political and economic history of the country in relation to MNCs within the mining sector.

2017, marks the 150th anniversary of the commercial discovery of diamonds in South Africa, with it came the establishment of the first stock exchange in Africa in 1881, as well as the establishment of two universities, the university of Witwatersrand and the university of Pretoria, the building of Railways from the coast to the interior had to be built to serve the needs of mining, the establishment of Factories that manufacture everything from steel, dynamite and mining equipment.

Mining and apartheid

South Africa possesses a large amount of mineral wealth, including diamonds, gold, ore and platinum, and the apartheid mining system was based on the exportation of these natural resources. The National Party, a former political party in South Africa founded in 1915, introduced the apartheid political system in South Africa in 1948. Apartheid, is an Afrikaans word for “the status of being apart/ separation,” this system of governance introduced laws which instilled racial segregation to create a white supremacy (Innes 1984). Mining and Apartheid had a symbiotic relationship, although in the end the mining industry helped to destroy aspects of the apartheid system. Innes states that in 1872 the white 'diggers' democracy' on the diamond fields was able to force the colonial government to restrict prospecting and mining rights to whites only. The emergent capitalist class was thus defined as white, and this fact was supported by the law (Innes 1984).

It can be said that mining catapulted South Africa's industrial revolution, it also helped to establish key aspects of the apartheid system even before these were enacted into law. Kane-Berman (2017) points out that the apartheid government endorsed a pact between the white Labour Party and Afrikaner nationalism. This was designed to protect white workers on the mines and elsewhere, as well as to restrict black urbanization, whilst establishing and enacting laws that promoted and sustained racial segregation. Racially oppressive legislation was entrenched in the structure of most of South Africa's workforce, which meant that skilled whites at the top, semi-skilled and unskilled whites in the middle, unskilled blacks at the bottom. Unskilled whites were among the beneficiaries of legislation reserving jobs for them, while blacks were barred by custom and often also by law from performing many skilled jobs. Education policy, and racial discrimination in the way the apprenticeship system worked, also denied them the opportunity to gain adequate skills.

In his book ‘‘*South Africa's Silent Revolution*’’, Kane-Berman (1990) stated that the more urbanized and industrialized South Africa became, the more upholding segregation became impossible in mining, it became difficult to keep managing

the society under a system of political apartheid. Therefore, mining played a pivotal role in helping to generate the forces that helped to destroy the apartheid system (Kane-Berman 1990). Apartheid imposed negative restrictions to the development of South Africa; however, the mining industry's influence on legislation provided a platform for integration and economic expansion. The postapartheid environment allowed provided South African multinational corporations with opportunity to compete with other African countries as well as global competitors.

Nationalization of mines debate

Along with the growth and expansion of South African multinational companies, arose the debate of whether mines in South Africa need to be nationalized. The risks and advantages of nationalization are constantly debated around the world but it seems that mining is the riskiest and dirtiest of all. Due to an ongoing need for reinvestment in new equipment and technology as well as pressure from labour movements for higher safety standards. There has been much debate around nationalisation within the South African environment, spurred by some South African citizens and politicians who are of the belief that nationalisation is a way to empower the country and to solve inequality and socioeconomic issues. Trillions of Dollars have already been plunged into the growth and development of mining. South Africa, under the African National Congress (ANC) led government has promoted the concept of nationalized mines (Maswanganyi, 2012). A legislative document known as the Freedom Charter states that “--all peoples shall share in the country's wealth, mineral wealth beneath the soil, the banks and monopoly industry shall be transferred to the ownership of the people as a whole; and all people shall have equal rights to trade where they choose, to manufacture, and to enter all crafts and profession.” (ANC 1955: 82)

The United Nations Conference on Trade and Development recommended either nationalization of mines or high taxation of extractive industries in countries where such industries are an important source of government revenue (Maswanganyi, 2012). While nationalisation was pursued in countries like Tanzania under President Nyerere, Zambia under President Kaunda, Mali under Modibo Keita and Zaire (now DRC) under President Mobutu Sese Seko in the hope of having control and increase benefits from the mining sector. The result was almost total collapse of their mining industries (Norhayati 2016)

Biais and Perotti (2002) have argued that the choice between state or private ownership will not just affect the outcomes of productive activity, but also shape society's political incentives. Widespread private ownership encourages the public to support the institutions of private property. Conversely, state ownership creates dependence on government and lowers the support for key market institutions. From this perspective, one of the adverse long-term consequences of nationalization is that it undermines the support for market institutions.

Mining and Labour

As the debate around the nationalization of mines gains momentum, The most prominent aspect of South African mining, is the relationship between the workforce, the political system and the multinational corporation, In the Apartheid South Africa was criticized for its labour laws and practices in the mining industry such as the colour bar and the compound system, but also for its low black wages and its hostility to black trade unions (Kane-Berman 2017) The industry was essentially built upon a labour force consisting of a minority of highly-skilled and highly-paid whites and a majority of unskilled Africans

earning very much lower wages. (Kane-Berman 2017). Currently the mining and related industries employs over one million people and is the largest contributor by value to Black Economic Empowerment (BEE) (Stats SA 2017).

The post-apartheid environment created an enabling environment for South African multinational companies such as De Beers to expand throughout and beyond the continent. The national labour and economic development institute (NALEDI) (2006: 14-16) states that small scale and artisan miners cannot compete with established multinational mining companies; they are confronted by multiple challenges such as cost of capital, lack of skills and access to markets. This tends to defeat the purpose of developing small, medium and micro enterprises.

Mining plays a significant role in the economy of the Southern African Development Community (SADC) considering its contribution to GDP, exports, and employment (NALEDI, 2006: 13). The national labour and economic development institute pointed out that in the past decade, employment in the mining sector within the SADC region has shrunk by 79% between 1994 and 2000 or 156, 478 jobs if we include Lesotho, Tanzania and Malawi. Total employment in mining was 751 115 in 1994 dropping precipitously to 594, 637 in the year 2000. South Africa experienced the highest job losses losing about 198, 294 or over a third of the total jobs lost in the mining sector (NALEDI, 2006). South African companies like AngloGold (De Beers) have been criticized for not recognizing or permitting trade unions to organize whilst other mining MNCs do, even though trade unions are established in the country of origin.

Guliwe (2006) points out that , there is a call for multi-bilateral relations to monitor MNCs in the mining industry, for example there needs to be a bilateral agreement between Trade Union Federations of the country of origin and the host or sector union affiliates, watchdog organizations like civil society e.g. Transparency International or Human Rights Watch should be an important

source of information and that managing multinational corporations should not be a one size fits all but a combination of approaches which are inclusive in nature.

Mining and the economy

Although it's on a downward trend from its peak some decades ago (from 21% contribution to GDP in 1970 to just 6% in 2011), the mining industry continues to make a valuable contribution to the South African economy, most notably in terms of foreign exchange earnings, employment and economic activity.

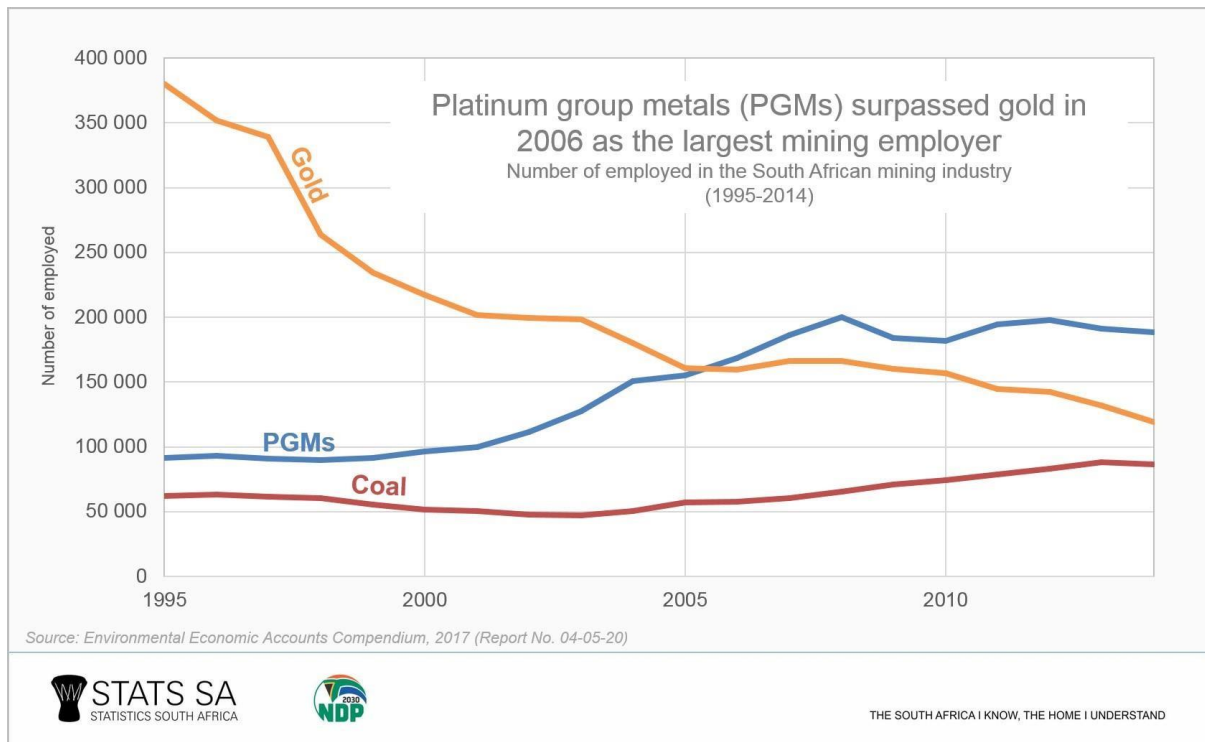
According to the Chamber of Mines, in 2017, South Africa's total mineral reserves are estimated at \$2.5 trillion, with the mining sector contributing 18% of GDP and over 50% in foreign exchange earnings. The sector brings in an annual income exceeding ZAR330 billion which accounts for 20% of all investment in the country. The mining industry generates ZAR441 billion in expenditure, ZAR407 billion of that is spent locally, further stimulating the economy. Mining also contributes significantly to the State Treasury (Stats SA 2017).

The size of the mining workforce in 2015 was estimated at 490 146 individuals according to Stats SA's recent census of mining report the PGM (platinum group metals) industry has the largest workforce, followed by gold and coal. Mining was the second most influential industry in 1980, with its 21% contribution to the gross domestic product (GDP). In 2016, the industry contributed only 8%.

According to Stats SA's *Environmental Economic Accounts Compendium*, also released in 2017, they estimated that South Africa has only 39 years of available gold resources remaining, whereas the country still has 335 years of PGMs and 256 years of coal reserves available. The same report shows how gold was once

the largest employer in the mining industry, giving way to PGMs in 2006. (Stats SA 2017) (See figure1)

Figure 1



Source: STATS SA 2017

Mining and trade unions

The South African mining sector was one of the biggest employers in the apartheid era. The industry was notorious for being racist during apartheid, Laws such as the Mines and Works Act, which prohibited black workers from holding high positions were endorsed and promoted by major mining MNCs. Black mineworkers were banned from forming trade unions in South Africa from 1946 to 1982, and the National Union of Mineworkers (NUM) was created in 1982, as a part of an alliance with the Congress of South African Trade Unions (COSATU). The NUM remains the biggest union in South Africa (Budeli 2012). The NUM initial objectives were to fight against racism to improve the conditions faced by black workers under the apartheid system. And work towards overcoming gender inequality within the industry. Currently the NUM is working

with Black Economic Empowerment (BEE) partners, and it is aiming to help communities, women and mining employees (Budeli 2012).

Manamela (2013) states “The key, absolutely fundamental rights of workers are those rights that enable the working people to fight for and defend their rights. This group of rights consist of three rights namely, the right to establish and join trade unions, the right to collective bargaining and the right to strike”. The Constitution of the Republic of South Africa, 1996, entrenches the right for trade unions to collectively bargain, as well as their members’ right to strike to advance collective bargaining.

2.2 Characteristics of MNC

Through examining several sources and reports related to MNCs in the mining industry, we have identified and summarized key fundamental characteristics

- Equal priority competitiveness

The Organisation for Economic Co-operation and Development OECD (2014) states that Governments may decide to control the export of unprocessed raw materials hoping that this will promote local downstream industries. The minerals and metal sector in Africa is heavily affected by export control measures of raw materials. Minerals processing industries is argued to typically consume large amounts of energy and water and employ a high skilled labour force. Proximity of sales markets and the state of infrastructure influence transport costs, another important co-determinant of global competitiveness.

The report by the OECD claims that if industries that are located downstream from the mining sector can source the restricted raw material at a lower price, they can sell their products at a cheaper price than would otherwise be possible. In other words, export restrictions act as an indirect subsidy to the production costs of these industries, enabling a country to export these products at a relatively cheaper price that therefore may get a larger share of the export market. Profitability implies that the higher-value products can compete successfully in the domestic or international market. The expected result is to see export activity at the industry level diversify away from the mined raw material and the share of (indirectly subsidised) processed products in the country's overall export activity rise relative to that of the rest of the world. (OECD 2014, Piermartini 2004).

- Corporate social responsibility

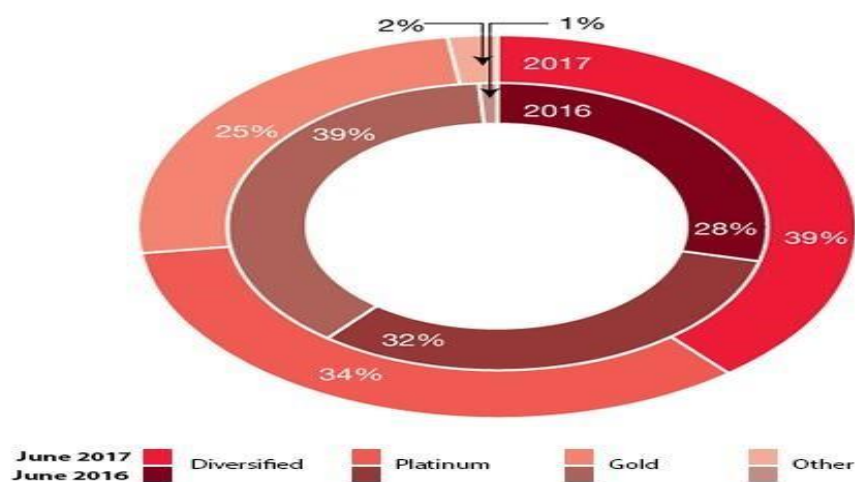
Centre of Scientific Research (CSR) can take different roles depending on the specific needs of a country. In a 2005 report, Trialogue (2005:97), a South African company that specializes in publishing works on good corporate citizenship and corporate social investment in South Africa, identified thirteen areas that CSR impacts in South Africa: black ownership and control, corporate governance and ethics, employee equity, employee relations and support, employee skills development, health and safety, HIV and AIDS, preferential procurement and enterprise support, supply chain compliance, product development, marketplace stewardship, corporate social investment, environmental impact of operations.

CSR is an important economic mechanism for MNCs to use to assert social and moral order not only locally, but internationally as well, especially in a postapartheid South Africa.

- Sustainable profitability

The South African mining industry focus on attracting FDI and rekindling investor certainty will increase the overall sustainable profitability of the industry. A PWC 'SA Mine' report (2017) states that the year of 2017 has been a turnaround in financial performance and the first substantial increase in revenue in five years. For example, price increases for bulk commodities ultimately led to a 13% increase in revenue to R371-billion and a return to net profit, which reached R17billion in the year ended June 2017, from a R46-billion loss in the prior year. Despite the improved financial performance, regulatory announcements in June 2017 resulted in market capitalisation dropping to June 2015 levels. The subsequent recovery to the end of August was aided by improved USD prices and hope by investors that the suspended new Mining Charter would be revised before final implementation (see figure 2).

Figure 2



Source: PWC 'SA Mine' report 2017

Through the establishment of a new Mining Charter which is inclusive and agreed on by all the main stakeholders through honest engagement. Business and labour constituencies should be unified with the common goal of growing the sector and delivering economic growth and prosperity to the South Africa.

- Minimum wage

It should be noted that the multinational corporations play a pivotal role in income earnings. While the majority MNCs within the mining industry pay far above the national minimum wage, some pay far below the required national standard. In the past decades, the working environment afforded unions such as the National Union of Mineworkers (NUMSA) with the opportunity to organize permanent workers. With the rise of globalization and the sudden change in the labour market, unions are forced to transform their organizing strategies since the new forms of employment advocate for flexible and unstable labour market. The rise of atypical employment means that employment brokers pose a serious threat to trade unions. An immense challenge for unions is to transform their traditional ways of organizing and can mobilize and organize in the informal economy since employment in the formal and permanent employment in the mining sector is declining. (NALEDI 2006)

- Legacy issues

South Africa's mining industry faces a multitude of legacy issues related to retired employees, deceased employees and employees affected by illness or injury sustained whilst they were in the employ of the industry years and decades back (African Labour Research Network, 2007: 60). The mining legacy in South Africa, in relation to the country's political history creates the environment in which communicable diseases such as Silica, tuberculosis and HIV to flourish, the poor housing and living environments, overcrowding, lack of access to appropriate health services have been major contributors. Naidoo (2013) points out that the mining industry not only shaped the early development of legislation

to protect the health of workers in the 1900s, but it also allowed South African researchers to produce ground-breaking research in mining-related respiratory diseases throughout the last century.

Olalde (2015) points out that to date women currently represent more than 13% of employees in the local mining industry. Apartheid not only entrenched racially discriminative legislation, but women were also discriminated in terms of employment within the sector. Major improvements in gender diversity have been regarded by international commentators to be greater than most industries worldwide. Olalde (2015) further emphasizes that other legacy issues include there are orphans and ex-employees out there without knowledge that they are entitled to monies from the mining industry, be it their retirement funds or compensation entitlements, Multinational companies within the industry need to accelerate and identify the process of dealing with such issues, through strengthen partnerships with communities.

- Environmental Impact

South Africa's Department of Mineral Resources, holds a list of 6,000 "derelict and ownerless" mines, which became the government's problem over the years when the former owners disappeared. Olalde (2015) states there are thousands of abandoned mines scattered across South Africa, many from the gold industry, the country faces a growing environmental, health, and social crisis created by these abandoned mines. He points out that millions of South Africans live around waste facilities. The apartheid government placed many settlements near or even on top of the mining waste dumps and as a result many residents deal with respiratory, skin, and other health effects and they blame on the mine waste piled in and around their communities (Idem).

According to the South African Chamber of Mines, in 2013, mining companies produced 562,000 times as much waste as gold, a decade before, that same ratio

was less than half as large, at 212,000 to 1. They state that African companies now dig up waste weighing more than 15 million pounds heavier than 38 Boeing 747s to process one standard gold bar's worth of final product. According to the Department of Agriculture and Rural Development in Gauteng, the province that includes Johannesburg and Pretoria, toxic and radioactive mine residue areas cover 124 square miles. (Chamber of mine 2013)

The Council for Scientific and Industrial Research estimated that as early as 2000, up to 20 percent of the stream flow around Johannesburg came from groundwater that was polluted, in part, by mines. Yet in 2016, at least 39 mining companies were operating without a water license, one of the major environmental and health concerns is the vast production of acid mine drainage, especially around Johannesburg, which the water department estimates at up to 92 million gallons per day. Acid mine drainage mobilizes heavy metals in the environment, creates sinkholes, and pollutes water supplies. (CSIR 2017)

- Health and Safety

The Chamber of mines states that majority of South African multinational corporations within the mining sector in Africa have taken measures to reduce risks associated with health and safety of workers. South Africa's mining industry has been transformed since the end of apartheid, with immense improvements in workers' rights and issues of health and safety. Since 1994, the number of fatalities has reduced by 88%. In 2015 a total of 77 fatalities were recorded, the lowest in the history of the industry, even though employee numbers have risen over this period. (Chamber of mines 2017, Leger 1991)

Legislation and policies regulating the health and safety of mineworkers in South Africa were only established in 1996. Prior to this, MNCs independently

determined which welfare issues, or improvements to mining conditions, they would address. Leger states that in 1995, the ANC government set up the Leon Commission of Inquiry into Health and Safety in the Mining Industry, and the resulting Mine Health and Safety Act of 1996 has improved the country's laws in this area. In 2006 South Africa's Mine Health and Safety Act (MHSA), was introduced which made provision for a tripartite approach to safety and health, requiring the mining industry, the unions and government to promote a safety and health regulations. (Leger 1991:169–185, Chamber of mines 2017)

2.3 Impact of MNCs in South Africa

Over the past two decades, globalisation has profoundly affected the economies of both developed and developing countries. According to Saville (1993), the economic growth of less developed countries (LDCs) occurs because of the presence of four “gaps” in these economies. The four gaps highlighted by Saville (1993) comprise of the foreign exchange gap, the resource gap, the skills and technology gap, and the budgetary gap. These gaps result in a shortage of investment capital, foreign exchange, skills and technology, and government revenue within the LDC.

The mining industry has had a major impact for nearly 150 years, it has been the driving force behind the South African economy; and has shaped the country's socio-political and cultural development as well as environmental sustainability.

The general benefits and costs of multinational corporations in South Africa have been a subject of constant controversy and research. But it is difficult to reach any conclusion due to problems involved in collection and interpretations of data most of which is often conducted and produced by the MNCs. Since democracy in 1994 the government has gained experience in dealing with local and international multinationals, and has worked out more detailed policies and regulations for

foreign investors. In response to this problem, it is argued that the multinational corporation (MNC) is one of the most effective means in generating growth and development in a host LDC. The argument is supported by the widely accepted notion that investment through multinational firms has become the core of international economic activity (Wang, 2010). Advocates and contenders of MNCs often find that the negative and positive impacts often coincide. To best understand the effects of MNCs in the mining industry, we will be reflecting on research conducted by Saville (1993) which explored the effects of the MNC on the host country, specifically on less developed countries (LDC). His research attempted to empirically prove if the MNC had a positive or negative effect on the host country.

A) Negative Impacts

It can be noted that in the 1970s, many host country governments and some economists viewed multinational investment as detrimental to host economies' welfare and development, creating monopoly situations that exploited those economies and stifled local competition (Markusen & Venables, 1999). Despite these negative views, it can be noted that since the 1990's, global FDI has increased substantially and the universal view on foreign investment by way of MNC's has become more permanent.

Labour effects

Mthombeni (2006) stated that during the reintegration of South Africa into the world economy, the policy that was employed "contributed to the loss of between

500 000 and 1 million jobs in the private sector” (Mthombeni, 2006.167) In terms of job creation, Ramstetter (2012) in his research associated technology with job creation, and showed that MNC’s tend to produce higher quality products based on these technology advantages over local firms, which tended to negatively impact the amount of jobs created. The argument, however, is double edged in terms of the total benefits gained by the host economy. Even if MNCs create fewer jobs than local firms, the cost is offset by higher labour productivity, higher product quality, and thus higher revenues (Ramstetter, 2012).

Economic effects

Saville (1993) argued that “the MNC adversely affects the LDC economy by distorting capital markets in two ways; firstly gaining favourable access to(cheaper) finance, and undertaking excessive repatriation of profits rather than reinvesting earnings“(Pg. 20) Reeb, Mansi, and Allee (2001) provide reasons stated, MNCs can take advantage of market imperfections and hence gain access to cheaper finance, and on the other hand, the argument of “exchange rate risk and political risk, suggest that the international firm will have a greater probability of financial distress and, therefore, a higher cost of debt” (Reeb et al., 2001,398). It is argued by critics, that MNCs create oligopolistic market structures through higher profitability. This is a result of local firms being unable to compete, ultimately closing operations or being acquired by MNCs.

Displacement of industries

Saville (1993) assessed the competitive structure of the economy while investigating the displacement of local firms once MNCs have entered the market,

he states that the presence of MNCs reduces the profitability of the local Firms in the same industry resulting displacement. Markusen and Venables (1999) stated that the competition effect is created when a MNC enters the local market and increases competition, however, depending on where in the production process they operate, there are both positive and negative outcomes. Kugler (2006) showed that MNCs tend to target industries in which domestic firms can easily be out-produced, resulting in the inability of the twenty-local firm to challenge the MNC thus losing market share which may lead to them closing.

Tax evasion

Numerous literature states that tax incentives which reduce the corporate tax rates for MNCs have been implemented to attract MNC investment. Evidence for this was provided by Fedderke and Romm (2006) who stated that “the impact of corporate tax rates is straightforward. Since higher tax rates applied to corporate profits lowers FDI returns, it will discourage inward FDI. Devereux et al. (2002) show that OECD countries do indeed compete with each other over corporate taxes to attract investment.” (idem).

Many MNCs operating in South Africa have been accused of employing transfer prices commonly known as artificial prices. These are transfers between subsidiaries that minimize total taxes for the MNCs and increase their global profits. By over pricing imports and under invoicing exports that are booked through subsidiaries in tax free ports, MNCs can repatriate more profits than are permitted by the country. According to an Oxfam report, ‘Africa: Rising for the few’, which stated that in 2010, multinational companies avoided paying tax on US\$40billion of income through a practice called trade mispricing, where a company artificially sets the prices for goods or services sold between its subsidiaries to avoid taxation. According to the UN’s Economic Commission for

Africa's Report on the High-Level Panel on Illicit Financial Flows from Africa, which stated that with corporate tax rates averaging out at 28 per cent in Africa this equates to nearly \$US11 billion in lost tax revenues (UNECA2017). It was pointed out that companies and investors from G7 countries are responsible for more than half of the foreign direct investment in Sub-Saharan Africa, and that MNCs from G7 countries may be responsible for robbing African governments of around \$6 billion every year in tax evasion (Oxfam 2015).

B) Positive Impacts

Despite the views between advocates and critics, there is nevertheless an agreement that MNCs do provide some sort of benefit to the host country. The political and economic landscape of South Africa has changed dramatically over the last two decades. Alfaro and Rodrigues-Clare (2004) conducted a firstgeneration industry-level (cross-section) study and generally found a positive correlation between foreign presence and productivity. Ray and Venaik (2008) stated that FDI is acknowledged for boosting exports, and they also found evidence that the MNC has a greater ability than local firms to export. Advocates of the MNC contend that multinationals play an important role in creating and growing employment in the host country (Ramstetter, 2012).

Job creation

Multinational corporations can provide developing countries with many benefits. The most prevalent being job creation. Beck (2000) states that governments in developing countries will usually try to attract firms to areas where there is relatively high unemployment or a good labour supply. According to Rama

(2003) Based on claims that multinationals pay higher market wages than their local counterparts. The higher wages could lead to increased individual spending or saving within the host country which indirectly have positive effects on the economy (Ramstetter, 2012). a study by Fedderke and Romm (2006) conducted in South Africa, empirically showed positive effects on growth because of foreign investment in South Africa.

Skills development and Technology transfer

MNCs will bring with them new technology, techniques and production methods. Workers are trained to use the new technology and production techniques and other domestic firms and industries will see the benefits of the new technology. Gangopadhyay and Chatterji (2005) argue that any MNC operating in a certain country needs to have an agreement with the host country about its operating guidelines, regarding technology transfer and skills development. This can be both beneficial and harmful, depending upon the terms of negotiations. If done right, the MNC would agree to a transfer of technology which would turn out to be very beneficial for the host country, since technological advancements require huge research and development funds that the developing countries just do not have.

Promoting trade and development

The presence of MNCs in developing countries may improve the reputation of the host country and other large corporations may follow suite and locate their business there as well. This investment encourages entrepreneurship and breeds a culture of competition, increasing competitiveness amongst local companies, causing them to improve their own goods and services by increasing their efficiency and ultimately quality to better compete. According to Baghwati (2004) the presence of MNCs plays a significant role of enhancing economic

affluence by offering new hope to developing countries. Gangopadhyay and Chatterji (2005) argues that globalization has been characterized as a reduction in trade barriers such as free flow of goods, services and labour from one country to another.

Creamer (2012) shows how important the mining sector is to the growth and development of the South African economy; “The South African mining industry’s contribution to the South African economy had shrunk from R103billion in 1993 to R93-billion in 2009, despite the global commodity boom and the talk of the so called super cycle. Trevor Manuel conceded that the South Africa government had failed to put in place the requisite water, rail and electricity infrastructure needed for much higher mining output. With such infrastructure in place, there was no reason why mining output could not double in the decade to support a 7% annual 35 economic growth rate” (Creamer, 2012, par. 5, 8, 9)

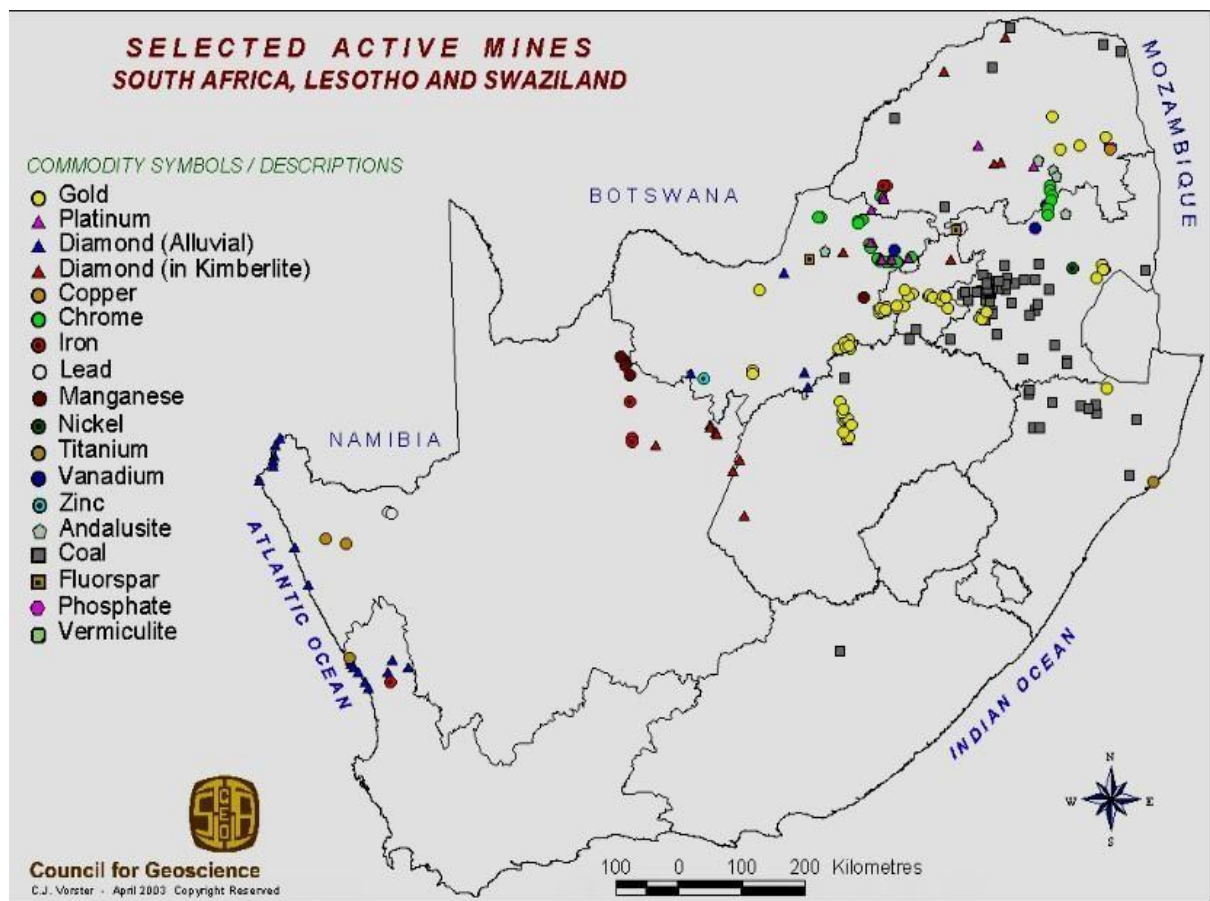
Mining MNCs and Black economic empowerment

The South African government and the mining industry have passed legislative policies, which ensure more racially inclusive structures. Few changes occurred in the South Africa’s corporate structure just before the dawn of non-racial democracy, 1994. In early 1990s the conglomerates unbundled their corporate structure, but this was much on how they performed their functions and not much in terms of their control of mining assets. (Chabane et. al., 2006)

Apart from the repressive policies, over years the economy was controlled by few conglomerates. By 1992 top six white conglomerates accounted for 85% of the market capitalization of the Johannesburg Stock Exchange (JSE). These were Anglo American Corporation (with 33%), the Rembrandt Group (14.6%),

Anglovaal (2.9%), the Liberty Group (4.7%), SA Mutual (14. 2%) and Sanlam (15. 6%). They had various subsidiaries spreading in many sectors of the economy which resulted in a pyramid structure, cross ownership and interlocking directorship (Halse 1982, Hirsh 2005).

There are core policies that are designed to guide the South African government to redress the economic imbalances created by the apartheid regime. Companies must comply with the Mining and Petroleum Resources Development Act (MPRDA) and Mining Charter (2003), the core of the Broad Based Black Economic Empowerment (B-BBEE) Act of 2003 policy in South Africa's mining industry. The Mining Charter demands that white and foreignowned companies transfer 15 per cent equity to blacks by 2009, increasing to 26 per cent by 2014. It also demands 40 per cent black control and management of mining companies regardless of the shareholding that blacks own. Mining conglomerates such as De Beers have mining leases in most of the areas (depicted on map below) and most of the Bushveld complex falls under the area owned by the Royal Bafokeng nation which has become one of the major community shareholders under the BEE policy. As shown in the map below



Source: Counsel for Geosciences

The mining industry and spill over industries

According to Handley (2004), the extraction of minerals in South Africa led to rapid industrialisation in the country as the manufacturing sector grew to produce intermediate goods to satisfy the needs of the mines and other sectors of the economy. The diversification of mining assets allowed the capital accumulated in mining to be used in expanding the country's industrial structure. Mining activities led to the improvement of infrastructure such as electricity, transport and water supply, financial services and attracted foreign investments (Baxter 2009). The Chamber of Mines (2010:2) estimated that the direct and indirect contribution of the mining industry was 19 per cent of the GDP and mining still contributes significantly to the national budget through corporate tax and royalties. For example, in 2010 the industry contributed R17 billion (£1.5 billion)

in corporate tax and R6 billion (£545 million) in royalties (Statistics South Africa 2010).

3.1. The De Beers Group – characterization

As in many diamond producing countries, the history and nature of the diamond industry in South Africa is synonymous with The De Beers group. The mining sector has shaped the economy, the politics and the social environment of South Africa. Diamonds today are mined in about 25 different countries but around 49% of diamonds come from South Africa. South Africa is the fourth largest diamond producer in the world. The De Beers group is a world leader in the exploration, mining and marketing of diamonds globally. (De Beers report to society 2017). Globally close to 200 companies are involved in diamond exploration with the largest producers being De Beers, BHP Billiton, Rio Tinto and Alrosa. Although the legacy of diamond mining in Africa is not always perceived as positive, diamonds have made a significant positive contribution to the economic growth of countries such as South Africa, Botswana and Namibia.

De Beers Consolidated Mines (DBCM) is the pioneer of the South African diamond industry. It's a 74/26 per cent partnership between De Beers and Ponahalo Holdings Limited, a broad-based black economic empowerment operation. Through this partnership, De Beers is representative of a wide range of South African communities, including retired workers, disability groups and leading empowerment business people. The company is South Africa's largest rough diamond producer and has more than one million hectares under licence. Today, De Beers has two mining operations in South Africa, Venetia and Voorspoed, plus surface diamond recovery in Kimberley (De Beers report to society 2017).

South Africa has been at the forefront of the campaign to halt conflict diamonds and to create a legal system which would assist in this matter. De Beers and other

key players in the diamond industry, have been the most vocal champions of 'prosperity diamonds' and 'diamonds for development'.

South Africa, is the world's third largest producer of diamonds, De Beers alone without any direct government partnership mines nearly 95 per cent by value of all the country's diamonds. De Beers is also involved in the cutting and polishing of diamonds in Namibia and Botswana. As the world's largest and oldest diamond company one can hardly talk about the impact of multinational companies in the mining industry without mentioning De Beers. According to Spar, the De Beers South Africa group, is 45% owned by Anglo American mining company with a smaller stake held by the Oppenheimer family. De Beers Consolidated Mines controls seven mines in South Africa, including the Kimberley facilities where Rhodes made most of his wealth. The company produces 13.7m carats of diamonds and 90% of the country's total (Spar, 2006).

De Beers Consolidated Mines was founded in South Africa on the Kimberley diamond fields in 1888. All Diamonds mined by De Beers, are sold through the Diamond Trading Company (DTC), based in London. De Beers' biggest markets are in the United States, Europe and Japan, with an increasing market in China (Idem).

Cecil John Rhodes, the founder of De Beers, recognized that the increase in availability of diamonds and so accessibility to the masses, would damage the diamonds association with romance and luxury, and demand would fall. Rhodes concluded that the only way to address this was to create a unified, vertically integrated organisation to manage the flow of diamonds from South Africa. Together with diamond buyers and local distributors Rhodes formed the Diamond Syndicate under which the distributors agreed to buy diamonds exclusively from Rhodes and sell them in agreed-upon numbers at agreed-upon prices, and so control the market (Idem). This control of both the mining and marketing of diamonds allowed De Beers to determine the precise size and quality of diamonds available, as well as the price. Until 1902, the company had the control over 99%

of world's diamond production. Now the company only mines 15% of the entire diamond production, and yet still controls over 80% of yearly diamond sales, suitable for jewellery (Idem:199). Through this position of power De Beers could control the diamond market and so maintain the perceived value of diamonds. Such a system also benefits competitors who, by cooperating with De Beers, reap the rewards of a consistently profitable industry. The diamond cartel, led by De Beers, in the last century flourished on a mixture of cooperation and ruthlessness, by working with other producers, restricting supply, squashing speculation and resisting excess profits (Idem: 206).

Democratic South Africa under the leadership of the African National Congress (ANC) government initially adopted the Reconstruction and Development Programme (RDP) which did not have the desired effect of attracting foreign capital which was replaced in favour of neoliberal macroeconomics, namely the Orwellian, Growth Employment and Redistribution programme (GEAR) which had more coherent economic policies (Fieldhouse 2000). GEAR is influenced by neoliberal economic ideas and emphasises that economic growth had to be stimulated and converted into a redistribution of incomes and opportunities through appropriate development programmes and purposeful creation of employment opportunities. The ANC government favours strict monetarism, privatisation of state assets, prudent fiscal policies, and an export-based economy in line with the principles of free trade (Venter 2001).

De Beers has signed up to the UN Global Compact and the World Economic Forum Partnership Against Corruption Initiative, and have given support to the Extractive Industries Transparency Initiative. Through the DTC, De Beers is a founding partner of the Council for Responsible Jewellery Practices (CRJP) Diamond Development Initiative (DDI) and a corporate partner in Business Action for Africa (Spar, 2006: 204). The objective of the CRJP is to promote

responsible ethical, social and environmental practices throughout the diamond and gold jewellery supply chain, from mine to retail. As a new initiative the CRJP are still developing their Responsible Practices Framework and monitoring system, which as a foundation has the recently published Principles and Code of Practice. There are currently 54 members of the CRJP representing trade associations; service industries; mining; diamond trading, cutting and polishing; gold refining, hedging or trading; jewellery manufacturing or wholesale, and the retail market (Council for Responsible Jewellery Practices, 2006).

3.2. The De Beers Group in South Africa

De Beers Group is a member of the Anglo-American group. Established in 1888, De Beers Group is the world's leading diamond company with expertise in the exploration, mining and marketing of diamonds. Together with its joint venture partners, De Beers Group employs more than 20,000 people across the diamond pipeline and is the world's largest diamond producer by value, with mining operations in Botswana, Canada, Namibia and South Africa (Hart and Padayachee 2010).

Since the discovery of gold and diamond in Kimberley and Witwatersrand, the history of South Africa has been influenced and modelled from its relationship with MNCs, in the mining sector. The relationship between the mining sector's business and South Africa has its roots in the discovery of gold in 1867 and diamonds in 1886. The mining industry, namely De Beers and the racial segregated apartheid government played a central role in South African capitalism from the beginning. Jomo (2002:1) cites liberal historian, JA

Hobson, (1961) who describes the South African context and De Beers founder Cecil Rhodes ideologies as imperialism which led to the rise of oligopolies/conglomerates and the tendency for these large enterprises is to influence their governments to secure advantages through colonial-type relations.

Cecil Rhodes, an English-born businessman, entered the diamond trade in South Africa by renting water pumps to the miners and then buying his own diamond fields. One of those fields was owned by two brothers named De Beer. Rhodes teamed up with Barney Barnato and created the De Beers Mining Company. In just a few years, the company went to buy almost all the diamond mines in South Africa. In 1888 De Beers Consolidated Mines, Ltd. was created, and a monopoly on production and distribution of all South African diamonds was formed (Hart and Padayachee 2010). Rhodes created the Diamond Trading Company to control supply and demand (and therefore prices). In 1890 he entered into exclusive contracts with ten London companies with the intention to limit competition and control prices. Upon Rhodes' death in 1902, the company controlled 90% of diamond production and distribution, not just in South Africa, but in the entire world. This control was in the best interest of the entire diamond sector as stable prices meant that diamond dealers and polishers were not at the mercy of economic crises (Chamber of mine report 2013).

In 1927 Ernest Oppenheimer, owner of Anglo American Corporation, entered the Board of Directors of De Beers. He established the Central Selling Organization, creating exclusive contracts with suppliers and buyers. For most of the 20th century it was impossible to trade diamonds outside of the control of De Beers. A De Beers subsidiary would purchase diamonds, De Beers would determine how many diamonds to sell at what price for an entire year. Producers would get their share of the output, and the buyers would resell their diamonds in New York and Antwerp (Chamber of mine report 2013). De Beers has also been criticized for profiting initially from exploitation through colonialism and then from the system of apartheid. Within South Africa, De Beers and Anglo were considered liberal as they consistently opposed the government on its racial policy. Harry Oppenheimer served for many years as a member of parliament for the antiapartheid opposition (Leger 1991).

More recently De Beers adheres to all the commitments made within the OECD Guidelines for Multinational Enterprises; this has been largely shown within developed countries or the more stable developing country context, such as South Africa, Botswana and Namibia. In the 21st century, the company changed its strategy to focus less on controlling the entire industry and more on promoting its own brand and retail stores (De Beers report to society 2015). The company entered into a joint venture with Louis Vuitton Moet Hennessy (LVMH) to create De Beers Diamond Jewellers Ltd. In 2001 the company had only one retail store, by 2008 it had 39 worldwide. The Oppenheimer family sold its shares to Anglo American Plc in November 2011, ending its 80-year reign as the sole controller of diamond production and supply. Today the Diamond Trading Company, the De Beers distribution arm responsible for rough diamond sales and distribution processes nearly 75% (by value) of all rough diamonds (De Beers report to society 2015).

Labour Unions

A study on the impact of multinational companies within the mining industry in South Africa is not complete without recognizing the workforce representative bodies, particularly because they are Constitutionally protected bodies. It is therefore a crucial part of the study to acknowledge the participation, influence and contribution union structures. The two most notable Unions in the diamond industry are the National Union of Mineworkers (NUM) and the South African Diamond Workers Union (SADWU).

Trade Unions are often involved in development strategies such as national bargaining workshops that contribute to the development of trade policies relevant to each industry within multinational companies in the mining industry. In the case of *DB Investments SA v De Beers Consolidated Mines Ltd & De Beers Centenary AG* (2001), Unions were invited to participate in merger proceedings between De Beers subsidiaries, the participation of the Unions in this merger was a significant step forward in ensuring fair and equitable representation by and for workers in the diamond mining industry. This Union participation further assisted the court in obtaining a clear understanding of the public interest concerns of the mining operations industry. (Ndlovu 2009). The voices of the workforce Unions were not as well protected in apartheid law as they are in the Constitutional dispensation. Therefore, it is important to acknowledge the contributions of labour unions.

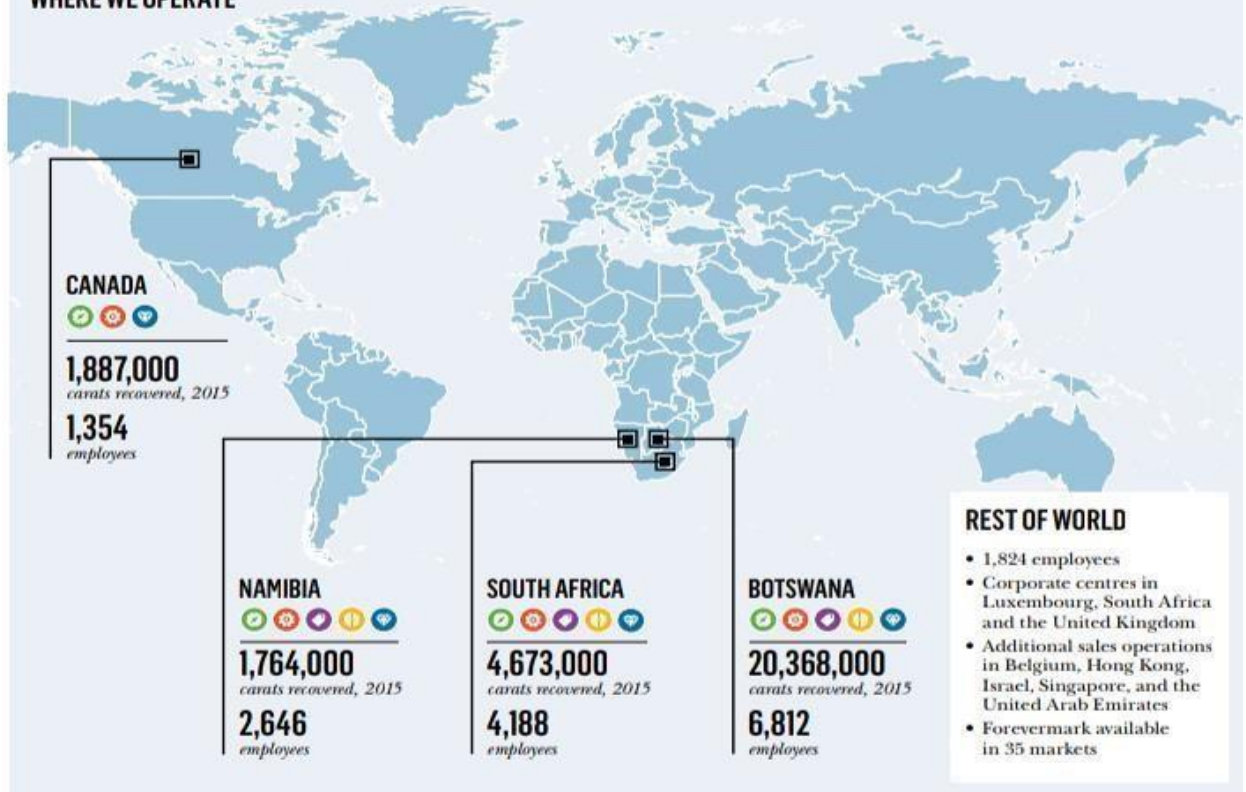
Ndlovu states in the 'Report of the Task Team Appointed by the Minister of Minerals & Energy to Analyse the Memoranda and Evidence Laid before the Commission of Inquiry into the South African Diamond Industry,' the Diamond Workers' Union made some pertinent submissions when asked to comment on the subject of 'the supply of rough and unpolished diamonds to the local processing industry.' One of the submissions made by the Union was that De Beers had a near monopoly of 95 per cent of the total rough diamond production and it believed that that the State had partnered with De Beers in ensuring that the status quo remained and thus not renewing or benefiting the local diamond any manner. According to Ndlovu (2009) this meant that the Union felt that this was a departure from the principle of free enterprise. The Union preferred the old diamond sales system (used pre- democracy) whereby rough diamonds were allocated directly to cutters or tool makers through the Diamond Board. This meant that under the old system every cutter had an allocation of rough diamonds. The provisions of the Diamonds Act were amended and have dealt with the issue of enhancing local beneficiation which De Beers has adhered to through their

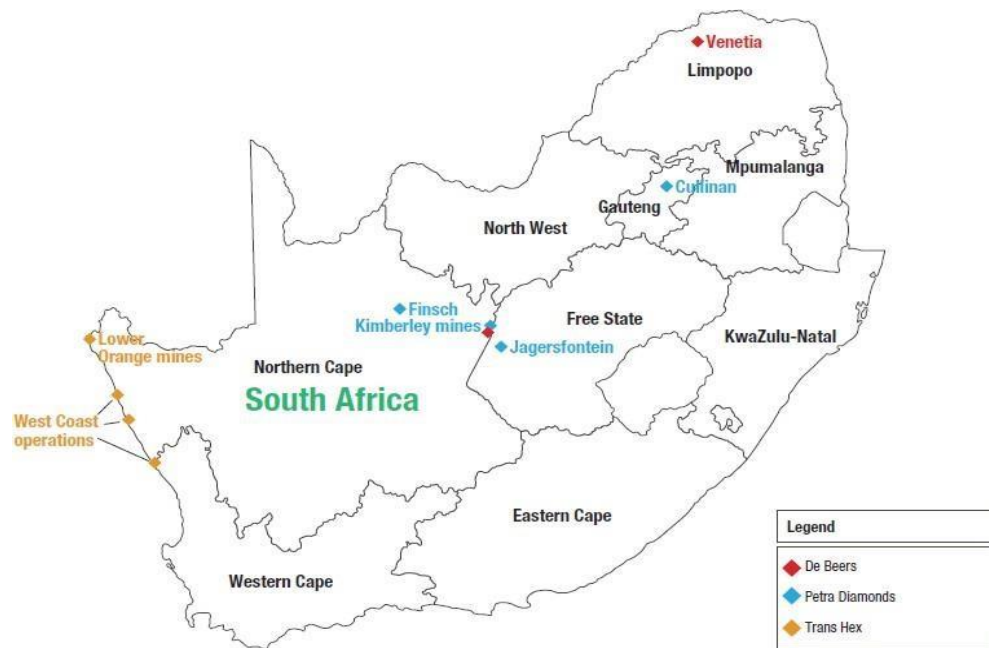
many local beneficiation programs. The participation of the Diamond Workers' Union proved to be pivotal in that it gave lawmakers in this case advice on the appropriate changes in law and the practices of multinational companies in the mining industry in South Africa (Ndlovu 2009).

A GLOBAL VALUE CHAIN



WHERE WE OPERATE





Source: De Beers report to society 2015

3.2.1. Negative Impact of the De Beers Group in South Africa

South Africa emerged from the British empire as a dual economy structured along racial lines. Since the end of apartheid, these lines have become more blurred, but economic inequality has increased. In the twentieth century, South Africa aspired to build a national economy based on an evolving relationship between the state, industry and finance. The relationship between multinational conglomerates such as De Beers and their impact has shaped the face of the country in multiple ways (Fieldhouse 2000: 120). Presently South Africa has one of the most sophisticated economies in the continent of Africa. However, it is an economy with the highest levels of inequality. This means that there is a wide gap between the rich and the poor. While it is true that some of the South African trade systems and legal codes are sophisticated, it is unfortunately an economy marred by extreme poverty for millions. It has been said that there are parts of South Africa which represent the

first world while it only takes a short drive to see a vast spread of a world that is in abject poverty (Marias 2011).

- Labour

Inequality is endemic in South Africa, despite the abolishment of apartheid and rise of democracy as the only legitimate form of government. Multinational companies in South Africa have been synonymously linked with the countries notoriously racist past which was constructed for the benefit of whites only.

South Africa's growth rate of an average 3 per cent a year is less than half that of the seven African countries (Ghana, Ethiopia, Côte d'Ivoire, Senegal, Tanzania, Sierra Leone, Burkina Faso, Rwanda, Benin) who (with China, India and Vietnam) currently make up the top ten fastest-growing economies in the world (The Economist, 2011). Despite South Africa being a fast-growing economy, Charles Feinstein (2005) depicts the country as being trapped between its origin as an imperialist export enclave and an aspiration to become a fully modern industrial economy which has been frustrated by continuing reliance on cheap black labour. Duncan Innes explains that during the early history of De Beers took advantage of all the mechanisms of Apartheid to provide the company with cheap and docile labour for its mines. (Feinstein 2005)

Innes states that De Beers contributed to the promulgation of racist laws such as the establishment of numerous taxes, including a poll tax, which was imposed and enforced in mining areas during the late 1880's, whereby the larger black population especially in neighbouring villages, which resulted in many native black men seeking employment in mines as a means of paying those taxes. Thousands of "migrant workers" were victimized by the poor living and working conditions in the DeBeers mines Innes (1984). The poll tax stated, "It is suggested to raise the Hut Tax to such an amount that more natives will be induced to seek work, and especially by making this tax payable in coins only; each native who

can clearly show that he has worked for six months in the year will be allowed a rebate equivalent to the increase that may be determined by the state."(Innes 1984), this marked the beginning of a new phase in the history of the country, where indigenous people were 'freed' from their land so that they could work in the mines and related industries.

Since 1994 when the ANC came in power, they adopted policy of reintegrating South Africa into the world economy by lowering trade barriers, scrapping import substitution and reformation the economy along neoliberal lines, has contributed to the loss of between 500 000 and 1 million jobs in the private sector of the economy (Venter 2001). Many of those retrenched were Africans without necessary skills to compete in the world economy, South Africa's integration into the global economy has therefore produced negative effects on job creation. In addition, foreign investment, which is a primary rationale of these policies, has not poured into the country in the volumes predicted or hoped for. Although neoliberal literature argued that this is a necessary sacrifice, the growth of the economy has been much slower over the last decade than expected and the economic benefits of following such a policy have yet to bring material benefits to the unemployed and the poor (Venter 2001). The major challenges facing South Africa today are a high unemployment rate, formally estimated to be averaging 25.52 percent from 2000 until 2017 percent by the Census 2011 results (Venter 2001).

- Political

Apartheid South Africa, Innes (1984) states that the apartheid regime reinforced De Beers business position. When countless of smaller companies either went into bankruptcy because of the social unrest within their labour forces, or when companies were forced to abort South Africa as foreign companies due to pressure

from anti-apartheid liberal/socialist groups abroad, De Beers bought them out. By so doing DeBeers bought cheaply good businesses but also it supported the Apartheid regime, according again to Innes (1984), De Beers propped up Apartheid and ended up with owning a multitude of corporations to the tune of 40% of all corporations listed on the Johannesburg stock exchange. Therefore, the company is also guilty of aiding and abetting the evil operations of a whole political system. As a result, DeBeers drew two advantages being their massive relatively cheap labour force which had to comply to its harsh managerial policies, secondly by unwarranted enrichment when it took over corporations which were driven out of business through no managerial errors of their own. (Innes 1984)

Taylor (2007) states that, multinational companies such as De Beers which had close links with the apartheid regime, cemented by various incentives that they obtained. The incentives came in a form of the regime intervening directly through passing legislations that denied entry of blacks in the industry as owners, subjected blacks to low wage jobs, low skilled employment and even being replaced with migrant labour. The apartheid government used immigration policy to import skilled labour. Most of the migrant labour came from neighbouring countries of Botswana, Lesotho, Malawi, Mozambique and Swaziland. The migrant labour system is still the major feature of the industry. Discrimination laws had negatively affected the economy. The negative consequences came in terms of higher wage costs because of higher wages paid to white labour, locking black people's potential and limiting supply of skilled labour. Continued discrimination resulted in internal political resistance and international economic sanctions. Throughout the years the apartheid racially segregated laws acted against multinational companies' profits. It forced the MNCs to start engaging with the ANC in exile in a bid to safeguard their investments, this resulted in the leader of De Beers Ernest Oppenheimer being a prominent spokesperson against apartheid (Taylor 2007).

- Environmental impacts

Despite political marginalisation, mining has also had a large impact on environmental sustainability in South Africa and will continue to affect the area into the future. Historically mining companies have used irresponsible mining methods with no regard for protecting the environment and often avoided their responsibility towards long term environmental rehabilitation by leaving inactive mining areas unrehabilitated. The De Beers group of mines have had a large impact on the environment as by the end of the 20th century the company had extracted around 31 million carats of diamonds from the Namaqualand Mines in Cape Town which are located along a 150 kilometre stretch of coastline by strip mining parts of the land to a depth of about 40 meters (Diamond insight report 2014). Inactive De Beers mines in South Africa are left in an unsustainable condition, these mines make up approximately 2,000 football fields of land which remains un-rehabilitated. These inactive mines have a direct impact on the sustainability of plant species in the affected regions. According to De Beers report to society, they have threatened 45 species of plants, which may no longer be around in the future due to the unsustainable mining (Diamond insight report 2014).

Diamond exploration and mining use two forms of energy: electricity and hydrocarbons (diesel, marine gas, oil and petrol). A by-product of both electricity and hydrocarbon energy is the release of carbon emissions¹ into the air, such as CO₂ (a naturally occurring gas). Carbon emissions are a major factor in global warming and climate change. Industrial activity (including the production and use of electricity) creates emissions – greenhouse gases – and other chemical (synthetic and natural) substances. These are released into the air and cause a range of environmental problems, from climate change to smog, which threaten our health and our environment. Reducing energy consumption helps to protect the planet (De Beers report to society 2017).

- Monopoly/Cartel practices

In 1888 De Beers Consolidated Mines De Beers Consolidated Mines was incorporated in South Africa by the was incorporated in South Africa by the suppliers to secure high market suppliers to secure high market prices of diamonds. At its beginnings, the prices of diamonds. At its beginnings, the diamond cartel successfully controlled the diamond cartel successfully controlled the worldwide supply of diamonds by regulating worldwide supply of diamonds by regulating mine output and by buying exclusive mining mine output and by buying exclusive mining rights from African nation

The De Beers group has been controversially embroiled and accused of cartel conduct. Gangopadhyay and Chatterji (2005) describe cartels as an agreement between producers of a resource, product or service to agree on minimum levels of prices offered for these resources, products and services to the public. KaneBerman (2017) state that due to the Great Depression of the 1930s, diamond prices were on the decline. Henry Oppenheimer, along with the New York advertising agency, N.W. Ayer in 1938, created a campaign to equate diamonds with love by showing moving stars wearing diamonds and convincing men that the size of the diamond on an engagement ring demonstrated how much they loved their bride-to-be. The famous tagline “A diamond is forever” was created by Frances Gerety of N.W. Ayer in 1947 which would later become the company’s motto and eventually be named the slogan of the century by Advertising Age (Kane-Berman 2017).

By 1981 De Beers had proved to be the most the most successful cartel arrangement successful cartel arrangement in the sphere of in the sphere of modern commerce. For more than a half century, while other commodities, such as gold, century, while other commodities, such as gold, silver, copper, rubber and grains, fluctuated silver, copper, rubber and grains, fluctuated wildly in

response to economic conditions, diamonds continued to advance upward in price each year (Maswanganyi, 2012).

DeBeers managed to pursue cartel practices through controlling most of the world's diamonds and persuading other diamond miners to market their diamonds through De Beers London DeBeers London-based based Central Selling Central Selling Organization (CSO) Organization (CSO), which then grades and sells rough diamonds to cutters and dealers for further distribution (Maswanganyi, 2012). De Beers cartel practise were abolished in the USA after the passing the Sherman Act which came because of a class action sought to end an alleged 60year conspiracy to fix the price of rough diamonds in the U.S. by the De Beers group of companies. According to Hopkins v. De Beers (2005) The complaints charged that De Beers had created a global cartel in the markets of rough and polished diamonds with a market share that reached nearly as high as 90% through aggressive management of supply and prices, and collusive agreements with competitors, suppliers, and distributors. De Beers consented to a historic injunction that prohibits De Beers from monopolizing the world supply of rough diamonds and from fixing the price of polished diamonds. The injunction also requires De Beers to submit to the continuing jurisdiction of the United States District Court for enforcement of the injunction (Hopkins v. De Beers Centenary 2005).

3.2.2. Positive impacts of the De Beers Group in South Africa

Today De Beers manages and owns mines that produce about half the world's annual output. They own most of the mines in South Africa. De Beers and their partners and subsidiary's control about 80% of diamonds sales, this means that they can keep availability low and prices high. De Beers has a monopoly over all the mines in South Africa, other than the illegal mines. The control over these

mines contributes greatly to the South African economy. It accounts for 18% of South Africa's annual GDP and brings in around \$3 billion annually on average per each country that has a diamond mine in South Africa. This allows for better living conditions and opportunities, such as better housing and faster development in technology this is good and sustainable as it provides better living conditions for the population. For instance, Kimberly, South Africa, was the first place in the northern hemisphere to install street lighting in the entire town. Diamond mining in South Africa has a large impact on the economy and it is currently sustainable and positive (De Beers report to society 2017).

- Economic

There has been a large impact on the South African economy by the mineral revolution of diamonds. Upon assuming power in 1994, the ANC government to come up with a formal policy that would transform the economic character of the country where people of all races were going to participate as equal citizens in the economy. The earliest intervention began with the changing of the 1991 Mining Law, under which minerals under the ground were privately owned. This intervention introduced a new mineral law, the South African Mining Law is regulated by the Mineral and Petroleum Resources Development Act, 28 of 2002 (MPRDA), where the state became the custodian of mineral resources. (De Beers report to society 2017). The South African government used licencing as a policy instrument to grant mineral rights to private companies, and in doing so; it offered preferential treatment to historically disadvantaged South Africans aspiring to participate in the extractive activities. The Mining Charter required all white and foreign-owned companies that existed before the act to convert their mining licences, referred to as old order rights to new order rights by 2009 (Budeli 2012). There are no requirements for foreign ownership by indigenous persons or entities in entities holding prospecting rights or mining rights in South Africa. However, there is a requirement that at least 26% of the attributable units of production of

prospecting or mining projects should be held by historically disadvantaged South Africans (Budeli 2012). The mining charter deals with the transformation of the mining industry to assist the entrance of historically disadvantaged South Africans into the minerals and mining industry applies to all holders of prospecting rights and mining rights. The mining charter was published in 2004 when the MPRDA came into effect but has been substituted by an amended mining charter in 2010. According to the Constitution of the Republic of South Africa (Act 108 of 1996) Multinational companies in the mining industry are responsible for the regulation of economic participation in the country's natural resources by establishing a guiding principle that all such economic activity must be done in a justifiable economically sustainable manner for purposes of social development. This means that all mining operations must adhere to these Constitutional principles to make sure that the persons involved in such a sector are able to benefit from the country's natural resources (Constitution of South Africa 1996).

Considering more than 100 years of publicity surrounding South African diamonds, it is a surprise to learn how small the industry is in relation to the economy. The industry's contribution to GDP represents only 0.88 per cent of the total, and its 15,000 miners and 2,000 workers in the polishing industry represent only 0.10 per cent of the formal labour force (De Beers report to society 2017). The industry contributes very little to government offering less than one per cent to state tax revenue. Because of the high value of diamonds, however, the industry's contribution to international exports is important.

Diamonds make up eight per cent of the total value of South Africa's exports. (NALEDI 2006) There are, however, provisions in the current Diamond Act which theoretically should generate more revenue for the state. One is an export duty of 15 per cent of the fair market value, levied on unpolished diamond exports. Amazingly, no revenue has been generated by this export duty since

1989. The Diamond Act states that if locally-mined rough diamonds are offered first to local industry for cutting and polishing, companies will be allowed duty free exportation (NALEDI 2006).

According to *De Beers Report to Society 2017*, the company invested R6.1 billion procuring goods and services locally in South Africa in 2016, a 27 per cent increase on the previous year. De Beers also provided R40 million in funding to communities around its mines through many community development initiatives. This included the continuation of the company's successful Zimele enterprise development programme, which has supported more than 3,000 jobs and 260 enterprises in South Africa since 2009. The Group also launched a new beneficiation project to broaden the participation in diamond cutting of Historically Disadvantaged South African entrepreneurs in 2016. The project involves working with five black-owned diamond companies, the South African government and the local diamond industry to develop the cutting and polishing sector. Because of its improved financial and operating performance, globally De Beers Group returned US\$5 billion to stakeholders in 2016 a 26 per cent increase on 2015 through taxes, payments and dividends, emphasising the importance of the relationships with stakeholders, including governments, communities, suppliers and joint venture partners in 2016 (De Beers report to society 2017).

- Black Economic Empowerment

Many black economic empowerment consortia have emerged since the beginning of majority rule in 1994. These are groups of black businesses and trade unions formed to acquire industrial, mining and media interests from white owners. Most significant among these is Mvelaphanda Holdings (Pty.) Ltd., led by former ANC politician Tokyo Sexwale. Mvelaphanda Diamonds (Pty.) Ltd. has obtained a major shareholding in De Beers. (Chamber of mines 2017)

In 2006 a new company, Ndowana Exploration (Proprietary) Limited, was formed by De Beers with 67% stake and local South African BEE company Mvelaphanda a 33% stake. The agreement marked the first time that De Beers had a partnership with another company in South Africa. De Beers operates and manages the largescale mining, and Mvelaphanda Resources manage other operations. When deposits are discovered that are best suited for exploitation on a smaller scale they are contracted or sold to small-scale operators from previously disadvantaged communities (Chamber of mines 2017). The partnership ensures the joint venture's compliance with the requirements of the Broad-Based Socio-Economic Empowerment Charter for the SA Mining Industry which underscores De Beers' commitment to transformation and development in South Africa.

In 2009, De Beers, launched the De Beers Zimele enterprise development initiative to help people in the local diamond communities in South Africa start or grow their own businesses. It's called "Zimele," the Nguni word that means to "stand on your own feet" or "be independent." The purpose of the initiative is to facilitate the creation, promotion, and expansion of sustainable businesses through funding and mentorship. It's part of De Beers' commitment to building a prosperous South Africa by empowering local communities (Chamber of mines 2017).

- Labour

The employment generated by South Africa's diamond mines is small compared with other mining industries. There are presently 555,700 miners employed in South Africa, but only 2.7 per cent (15,000) are diamond miners (Weldon, 2001). Diamond mining is generally less dangerous and toxic than other forms of mining, and safety is not a major issue. Diamond mines are rarely deep, although there are currently proposals to extend some to a level of 1,000 metres. The National Union of Mineworkers (NUM) is the major organizing force in the sector, although there are some smaller, white-dominated unions as well. Within the

NUM, diamond miners represent a very small sector, with 6,388 paid-up members. (De Beers report to society,2015) Diamond workers' wages in South Africa are just below the industry median. In 1999, the industry average minimum was ZAR1,848 (US \$244) per month, while the diamond workers agreement was set at ZAR1,605 (US \$212) (Department of Minerals and

Energy, Government of the Republic of South Africa, Annual Report of 2013-2014).

South African mining unions are currently in dispute over subcontracting and outsourcing to non-unionized firms. An equally important union issue is the increasing trend to contract labour instead of permanent workers. At De Beers' Finsch mine, for example, union leaders state that of 2,000 employees, about 700 are contract workers (NALEDI 2006). In 1992, all 2,000 were permanent staff. Despite this the De Beers group contributes to the development of related labour markets, there are presently 436 independent diamond cutting licensees in South Africa, employing approximately 2,000 workers. Some plants are small independently owned industries with two or three employees, while others are large enterprises. There are presently 19 De Beers sight holders in South Africa dedicated to skills development and industry building with the cutting and polishing of diamonds market. (Department of Minerals and Energy, Government of the Republic of South Africa, Annual Report of 2013-2014)

De Beers *Report to Society* 2017 highlights that in South Africa, De Beers Group spent more than R85 million on training for employees, mentored five small diamond cutting and polishing businesses, three of which are female owned, in support of South Africa's broad-based black economic empowerment objectives; De Beers has supported an additional 70 jobs in 2016 through 10 new enterprises as part of Zimele, an enterprise development programme run in partnership with Anglo American; worked with 700 community members to embed a road safety campaign for better pedestrian and vehicle safety around the Venetia mine in the north of Limpopo province (De Beers Report to Society 2017).

In the event of a commercial failure of a mine, the case of *National Union of Mineworkers v De Beers Consolidated Mines (Pty) Ltd*, discussed the retrenchment of employees of De Beers at the Koffiefontein mine. This diamond mine was reported as having run at a consistent loss over its inconsistent operative years which culminated in a R75 million-rand loss in the budget year of 2005. In 2005 De Beers considered closing the mine; however, instead of closing the mine cost-saving measures were implemented. The strategy of implementing cost saving measures adopted by De Beers in this case and their attempts to retrench fewer employees or finding a buyer for the mine as a rescue package for this struggling business entity was in line with the objectives of the global insolvency laws governing multinational companies, which involve strict corporate social responsibility methods (*National Union of Mineworkers v De Beers Consolidated Mines (Pty) Ltd* 2006).

- Environmental

South Africa has, and still is, relying heavily on mining activities to generate wealth that could be translated into economic development, infrastructure and employment. The company in their *Report to Society* 2017 announced a ground breaking research project in South Africa to investigate the possibility of carbonneutral mining through storing large volumes of carbon in kimberlite tailings, the rock material left over after diamonds are liberated from mined ore

If one considers specifically goal seven of the UN 2015 MDG which provides for the protection of environmental sustainability, mining is acknowledged to be a serious environmental threat as a rule. It has been reported by the United Nations that Artisanal diamond mining has stripped thousands of square miles of African topsoil without rehabilitation or replacement. Therefore, it is part of the UN goals to focus their attention on the promotion of sustainable mining practices and the

rehabilitation of exhausted diamond fields so that the flora and fauna may be restored to such areas (MDG 2015).

Mining activity involves a great deal of waste production and therefore environmental rehabilitation and ultimately conservation must guide every mining project in terms of the Constitution of the Republic of South Africa (Act 108 of 1996). This provision is important in guarding against environmental degradation during mining operations while ensuring that the environmental rights of persons involved within such industries are protected. De Beers has committed to adhere to all policy and regulations in South African. According to the Minerals Act, 1991 (Act 50 of 1991) provides statutory requirements enforcing environmental protection law, once a mine is closed, companies are obliged to provide the financial and other resources to ensure that disturbed areas are returned to a state that is equivalent to or better than it was before the mining started. The diamond industry has established many Nature Reserves, where there are breeding programmes for rare and endangered species which have introduced antelope, disease-free buffalo and white rhino calves into the population (Mthombeni 2006). De Beers Company adheres to these obligations through selling inactive mine to small local mining companies. Trans Hex acquired the Namaqualand Mines from De Beers in 2014, The Company is renowned for incorporation and the beneficiation of local industries such as

Trans Hex's joint-venture beneficiation BEE polishing factory based in Johannesburg. In the *Report to Society 2017* De Beers launched a new beneficiation project to broaden the participation in diamond cutting of Historically Disadvantaged South African entrepreneurs in 2016. The project involves working with five black-owned diamond companies, the South African government and the local diamond industry to develop the cutting and polishing sector (De Beers Report to Society 2017).

According to Weldon (2001) The Energy efficiency and renewable energy programmes are widely used across the diamond mining industry. Emission levels are monitored through energy and carbon emission assessments. De Beers mines have reduced their energy use by introducing a range of schemes: installing timers on boilers, shutting off pressurised fans over weekends, running mud pumps in off-peak periods and introducing battery-powered vehicles that do not emit harmful gases. Furthermore, solar panels and energy saving schemes have reduced the amount of electricity used at mines (Weldon 2001). Venetia De Beers largest mine is in an environmentally sensitive area and De Beers spent some R17m on initial environmental engineering projects. The 35km-long water supply pipeline and other service supply pipelines are buried, the mine has a state-of-the-art dust control system, and noise and lighting impacts are minimised. The company also established the 36,000ha Venetia Limpopo Nature Reserve adjacent to the mine and moved many animals from a new mining area to the reserve (Mthombeni 2006).

Minimising mining's impact on these ecosystems starts at exploration, continues throughout the mining process and carries on after a mine has been closed. To protect local biodiversity through maintaining plant life and wider local ecosystems, De Beers and other mining MNCs, work with the Millennium Seed Bank (run by The Royal Botanic Gardens at Kew Gardens in London, UK) on a global seed conservation programme which collects, conserves and researches the world's seed-bearing plants. The diamond industry has worked with the South African National Parks and Peace Parks Foundation to develop a trans-frontier park which is a protected conservation area that straddles international boundaries, that incorporating large areas of land around De Beers Venetia diamond mine in northern South Africa (Weldon, 2001).

Today most modern diamond mines are managed to the ISO 14001 global standards of environmental management, and the major companies have a policy of regularly publishing reports on their environmental performance. De Beers was an early adopter of ISO 14001, having its first mine certified in 1998 (Mthombeni 2006). All except one of De Beers' mines and many other sites including exploration ventures and laboratories and the Diamond Trading Company are currently ISO 14001 certified. In 2000, the South African Department of Minerals and Energy introduced an award scheme for Excellence in Mining Environmental Management (EMEM awards). De Beers has received a number of these awards at different mines (Mthombeni, 2001).

- Legislative

According to South Africa's Minerals and Petroleum Resources Development Act 28 of 2002 (MPRDA), The wording of the preamble of the MPRDA illustrates that it is an instrument whose main purpose is to actively bring about legislative objective to ensure that the State as custodian of the country's mineral resources is empowered to deal with those resources in a sustainable manner for the benefit all people of South Africa. This includes those communities that are affected by mining and rural communities (Weldon, 2001). There is a special commitment to eradicate discrimination in all forms in the mineral and petroleum industries. Due to the prodigious size of the MPRDA, it is important at this stage to discuss in further details certain excerpts of the Act considering its contribution to the developments in diamond laws (Minerals and Petroleum Resources Development Act 28 of 2002).

The characteristics of the De Beers group the diamond industry and its legislative participation role in South Africa has been defined by the country's unique history. The fact that South Africa was colonized from within and did not become 'independent' until 1994 helps to explain the economic structure, why there is

such a scarcity of black-owned mining enterprises, and why black communities have received little benefit from diamond mining (Department of Minerals and Energy, Government of the Republic of South Africa, Annual Report of 2013-2014). The history helps explain South Africa's Diamond Act and the Minerals Development Act. Past mining legislation was an anachronism, tied to a past which favoured a minority, exploited the majority and resulted in policies that were the antithesis of what is understood by the terms social or economic development. South Africa's mining legislation is not just a regulatory mechanism, it is a social document, intended to transform an industry (Department of Minerals and Energy, Government of the Republic of South Africa, Annual Report of 2013-2014).

De Beers has had significant role in participating with South African law as well as international law. It is therefore prudent that De Beers and its notable participation in South African diamond trade and law is captured in this study. De Beers under the Minerals Act of 1991, adheres to the provision which advocates for both private and public ownership of mineral rights. The Act would transfer all mineral rights to the state. The Bill is a social and ethical code, as well as a technical mining Bill. It aims to correct the mining exploitation of the apartheid regime and to right some wrongs. Some of its more important objectives are to expand opportunities for historically disadvantaged persons to enter the mining and minerals industry and to benefit from the exploitation of the nation's mineral resources, promote employment and advance the social and economic welfare of all South Africans and ensure that holders of mining rights contribute towards the socio-economic development of the areas in which they operate (South African Minerals Act of 1991).

South Africa's current mining legislation and policies provide more opportunities for small-scale mine owners, especially those from disadvantaged communities. The government aim is to reduce monopoly control in mining, and to bring South Africa in line with global trends (Stevens 2017). Under the current policies land holding is no longer possible. In addition, mining companies have rights for a

limited period. This could vary from five to 25 years depending on the specific conditions of the holding. And all tax revenues from mineral rights go to the Government of South Africa (Ndlovu 2009). At present some traditional authorities, such as the Bafokeng in North West Province, have earned considerable royalties from mining operations located in their areas. The Bill has motivated De Beers and other MNCs in the mining industry to move toward partnerships with black mining companies and to pursue and comply with black economic empowerment policies (Stevens 2017).

The Kimberly process is possibly the most prominent piece of legislation, conceptualised by De Beers. The Kimberley Process Certification Scheme (KPCS) is the process established in 2003 to prevent "conflict diamonds" from entering the mainstream rough diamond market by United Nations General Assembly Resolution 55/56. The process was set up "to ensure that diamond purchases were not financing violence by rebel movements and their allies seeking to undermine legitimate governments. (Kimberley process report 2018) The evidence of atrocities in countries like Sierra Leone, Liberia, and Côte d'Ivoire will stand indefinitely as a stain on humanity. However, the implementation of the Kimberley Process and the global attention placed on the issue of conflict diamonds has helped to virtually eradicate the problem.

Conflict diamonds now represent much less than 1% of the entire industry's trade, and importing nations like Belgium, UAE, USA, and Israel have placed strict controls on diamond imports that seek to go even further than the Kimberley Process (Stevens 2017).

- Security

The trade in illicit and conflict diamonds in South Africa is a complex issue that goes beyond the scope of this paper. There is emerging evidence, however, that there is an extensive illicit trade in domestic rough diamonds, and in conflict

diamonds from Angola and the Congo. The South African diamond industry devotes significant resources to security, in pursuit of a ‘protection at source’ philosophy. The main players, particularly De Beers, have long-established, inhouse security organizations, and in recent years a much closer relationship has evolved between the industry and the South African Police Service (SAPS) (Bond 2000).

The ‘Kimberley Process’ was initiated by the Government of South Africa as well as key players such as De Beers in May 2000, to grapple with the problem of conflict diamonds. Concerned about how diamond mining fuelled wars in Angola, Sierra Leone and the Democratic Republic of the Congo might affect the legitimate trade in other producing countries, more than 35 countries have been meeting on a regular basis to develop an international certification system for rough diamonds (Mthombeni 2006). Any diamonds involved are forfeited to the state and are frequently offered to smaller cutting and polishing factories. In 1999, 328 persons were arrested for illegal possession or theft of rough diamonds and 2,826 carats of diamonds were forfeited. In 2000, 355 persons were arrested and 12,457 carats of diamonds were confiscated (De Beers report to society 2017).

Conclusion

According to the World Investment Report (Sauvant 2004), South Africa is regarded by far as the most attractive country for MNC activities in Africa. Services that have shown significant growth are telecommunications, electricity, management and trade. Thus, for example, South Africa’s FDI in telecommunications and information technology has overtaken that in mining and extraction. De Beers operates in more than 20 countries across six continents employing more than 13,000 people, and has mining operations across Botswana, Namibia, South Africa and Canada. The relationship between De Beers and South

Africa embodies the symbiotic relationship between multinational companies and host countries. The most important feature of globalization is creation and development of multinational corporations (Ndlovu 2006).

This study without being insensitive about the atrocities that have previously been associated with the trade of diamonds in South Africa, is written from a reconciliatory perspective. This is done to establish an awareness of the positive aspects of South African Multinational corporations within the mining industry, De Beers diamond trade developments as part of an acknowledgment that trade in diamonds must be done in a just and fair manner having respect for human dignity.

This study not only serves to benefit South Africa as a diamond producing country but it aims to add required knowledge related to MNCs within the mining industry, particularly having regard to the fact that South Africa plays a significant role in the global economy and its diamond trading activities do not occur in a vacuum. Therefore, the role and impact of MNCs within the mining industry. It can be stated that in this study the legal literature, academic reviews, and academic literature have been used to provide practical insight into the diamond trade industry in South Africa. The central issue addressed is how MNC activity in South Africa impacts different spheres and simultaneously ensure that sufficient capital and commitment are harnessed to guarantee that resources are made available for the socio-economic needs of the country.

According to UNCTAD (2004), a careful and well-managed integration into the world economy that is appropriately sequenced and adapted to form part of an economic and institutional development programme, can support domestic investors and producers. Domestic economic policies in developing countries — especially trade, investment and technology policies are usually constrained by international trade and loan obligations. It is therefore necessary to revisit the

issues of appropriate national policy space as well as policy flexibility in the developing countries (UNCTAD, 2004).

Strange (1996) and Gilpin (2001) argue that there is a shift from state to markets that has made political players of the MNCs. Strange argues that MNCs are political institutions and exercise political relations with civil society. It is therefore crucial that laws related to the regulation of this industry are comprehensively and analytically studied for the purposes of understanding South African national and international diamond trade regulatory framework. This is done with the aim of illustrating that there has been a significant shift of prevailing wisdom in the South African diamond trade industry. It is now evident that more constitutionally justifiable and internationally sound diamond trade practices have been adopted and applied.

Gilpin (2001) argues that apart from the threat that De Beers faced posed by conflict diamonds in the legal regulation of diamond trade, there is no doubt that the diamond industry and the laws applicable to it have drastically been altered by the new constitutional dispensation in South Africa. Historically South Africa was marked by a protection of unfair capitalism, market dominance and the legal protection of monopolies. Even the social sciences and political commentary on the subject in history makes little mention of equal access and benefit to the country's resources in diamond trade, however, in this study it becomes evident that the law illustrates a radical change of trends in trade. One of the most evident changes in South African diamond trade involves the promotion of freedom of trade, within the bounds of constitutional fairness and protection of free competition in the market.

South Africa's efforts are commended in that despite the country's unfortunate history of racial segregation and discrimination, it has managed to allow legislative changes which have created a new equity based diamond trade environment. Strange (1996) illustrates that the diamond trade environment has allowed South Africa and De Beers to conduct its diamond trade within the newly

established limits of equitable access to diamond resources while promoting international eradication of conflict diamonds. Efforts to make equitable diamond trade possible in South Africa under the new diamond laws is shown in the fact that South Africa has participated in allowing affirmative action measures in the diamond sector and South Africa has also engaged with the international community in the formulation and setting up of the Kimberley Process Certification Scheme (KPCS) which is an endeavour designed to keep conflict diamonds out of legitimate trade. By the name of the process, as Kimberley is a famous diamond mining town in South Africa, it can be said that South Africa has taken ownership of the process (Strange 1996).

Changing political and economic landscape has influenced the structure of the mining industry South African. Constitutionally based diamond laws and symbiotic relationship with multinational companies in the mining industry illustrates legislative leadership which can be used as a basis and model for other diamond producing States to strengthen their existing diamond laws. This is not to suggest that South African diamond law is a flawless model as it is possible and encouraged that South Africa undertakes to learn from the diamond laws of other countries. The study deduced that the mining industry's legislative leadership has afforded black people in South Africa the opportunity to acquire equity ownership and attain control in South Africa's mining industry after the passing of the Mineral and Petroleum Resources Development Act (MPRDA) of 2002 that was followed by the Mining Charter (2002) and the Black Economic Empowerment (BEE) Act of 2003. These are core policies that guide the South African ANC government's economic intervention, to redress the economic imbalances created by the apartheid regime.

Marais (2001) and Bond (2000) argue that De Beers contribution to the developments in national diamond laws echo the ideals illustrated by the South African Constitutional values of fairness, equitable access to national resources

and justice have been fully captured in South Africa's legislation. This is evident in the form of enabling statutory law and regulations as well as the international laws as adopted by the United Nations. These laws are being actively applied internally and externally in South African diamond trade activities with the purpose of achieving international harmony for the common good of the Republic by encouraging broad based socio-economic empowerment and equal access to resources for all South Africans and the common good of mankind by enacting methods of diamond trade that will condemn and curb trade in conflict diamonds.

According to Chabane et. al. (2006) and the Socio-Economic Report to the 11th Congress (2012), even though multinational firms are the surest connection of developing countries to the global marketplace, without which these economies cannot prosper, a multinational companies position should be dictated by the developmental needs of the country and should form part of a carefully constructed national industrial strategy. Transforming the economy involves policies that promote the basic needs producing sectors, South Africa has used neo liberalised strategies in dealings with MNCs in the mining industry with the hope that it would attract foreign investment and increase local beneficiation.

In general, evidence extracted from the UN reports, organisations like Oxfam (2001 & 2002), economists like Marais (2001), share a view that although trade can play an important role in poverty reduction, there is no single multinational trade policy prescription that will suit the needs and circumstances of all countries. These authors believe that selective intercessions decide the nature and success of a multinational company in a country's industrial development. Therefore, countries must design and implement strategic trade policies within the framework of their national development needs, considering their impact on society, environmental sustainability, gender equity, and basic rights. In the view of these authors, South African multinational companies can only succeed if they harness local capital investment for developmental projects that guarantee high rates of return, and when large portions of the surplus can be reinvested in targeted activities.

The study therefore concedes that South Africa as a developing country nevertheless stands a decent chance of achieving its set of development goals. The capital inflow from overseas-based MNCs in the mining industry to South Africa, as well as South African-based MNCs in the mining industry have been building their own international production systems and succeeded in securing considerable development and growth in the global economy. Sauvant (2004) pointed out, that South African MNCs have become major world players in their industries: De Beers subsidiary, AngloGold South Africa has become the world's largest gold producer.

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